SUPREME COURT OF THE UNITED STATES.

No. ~~289~~. 1750.

THE UNITED STATES, APPELLANTS,

vs.

JAMES G. MOREHEAD, ADM'R OF WILLIAM KNIGHT, DEC'D.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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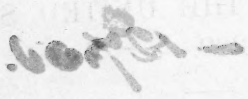

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Transcript of the Proceedings in case No. 89, *James G. Morehead, claimant,* vs. *the United States, defendant, for the place named "Carmel."*

OFFICE OF THE BOARD OF COMMISSIONERS
TO ASCERTAIN AND SETTLE THE PRIVATE
LAND CLAIMS IN THE STATE OF CAL'A.

Be it remembered, that on this third day of March, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of James G. Morehead, adm'r, &c., for place named "Carmel," was presented and ordered to be filed and docketed with No. 89, and is as follows, to wit:

(Vide page 4 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *May* 5, 1852.

In the same case the deposition of Samuel J. Hensley, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed, and is in the words and figures as follows, to wit:

(Vide page 6 of this transcript.)

SAN FRANCISCO, *August* 14, 1852.

In the same case, on motion of the counsel for the claimant, the following order was granted, to wit:

(Vide page 18 of this transcript.)

SAN FRANCISCO, *Feb'y* 9, 1853.

In the same case the deposition of N. A. Den, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed, and is in the words and figures as follows, to wit:

(Vide page 7 of this transcript.)

SAN FRANCISCO, *Feb'y* 10, 1853.

In the same case the deposition of Jose Maria Covarrubias, a

witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed, and is in the words and figures as follows:

(Vide page 9 of this transcript.)

SAN FRANCISCO, *June* 8, 1853.

In the same case the deposition of Jose Matias Moreno, a witness in behalf of the claimant, taken before Commissioner , was filed, and is in the words and figures as follows, to wit:

(Vide page 10 of this transcript.)

SAN FRANCISCO, *Feb'y* 21, 1854.

In the same case Commissioner Alpheus Felch delivered the opinion of the board, rejecting the claim.

(Vide page 25 of this transcript.)

SAN FRANCISCO, *Sept.* 26, 1853.

This case was submitted on briefs on both sides and taken under advisement by the board.

SAN FRANCISCO, *Aug.* 15, 1854.

In the same case, on motion of the U. S. law agent, the following order was made, to wit:

(Vide page 28 of this transcript.)

Petition.

Before the honorable the commission to ascertain and settle private land claims in the State of Cal'a.

James G. Morehead, administrator of the estate of the late William Knight, gives notice that he claims, by virtue of a grant from the Mexican nation, a tract of land called Carmel, situated on the borders of Sacramento river in said State, bounded as follows, to wit:

Easterly with the said river Sacramento; southerly with the rancho of the late Don Tomas Hardy, and that of Don Julien Gordon, called Jesus Maria; westwardly following the arroyo of Jesus Maria, and the first range of hills, and northerly with vacant lands; containing ten sitios of ganado mayor or square leagues, more or less.

Said tract was granted on the 4th day of May, 1846, to the said William Knight by Don Pio Pico, constitutional governor of California, and therein authorized to make said grant in the name and on behalf of the Mexican nation; and in pursuance of said grant, was occupied and possessed by said Knight.

On the day of October, 1849, said Knight *did* intestate in this State, and on the 6th day of November, 1851, the petitioner was appointed administrator of said Knight's estate, and the real

estate of the deceased being by the laws of California vested in the administrator, he brings this, his petition, and asks that said claim be confirmed. A copy of the papers relating to said grant are herewith presented, marked A, and a copy of the letters of administration issued to the petitioner, marked B. The petitioner relies on the documentary testimony above indicated, and such other evidence as he may be able to obtain.

JONES, TOMPKINS & STRODE,
Attorneys for Claimant.

Filed in office March 3d, 1852.

GEO. FISHER, *Sec'y.*

Deposition of Sam. J. Hensley.

OFFICE OF THE BOARD OF COMMISSIONERS
OF CALIFORNIA LAND CLAIMS,
San Francisco, May 5, 1852.

On this day, before me, Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in the State of California, came Samuel J. Hensley, a witness produced in behalf of the claimant, James G. Morehead, whose petition is No. 89 on the docket of the board, and was duly sworn.

The law agent was notified and attended.

Questions by Claimant.

Question 1st. What is your name, age, residence, and how long have you resided there?

Answer. My name is Samuel J. Hensley; my age thirty-five; my residence San José, and have lived in California since the fall of 1843.

Question 2d. Did you know the late William Knight, and when and where did you know him?

Answer. I did know him. I knew him first in New Mexico in 1837, and met with him in California in the spring of 1844, and was with him in 1844 and 1845 in the campaign with Micheltorena against the insurgents in California; I was also with him in the war which was waged in California between the United States and Mexico, from the hoisting of the American flag until the conquest of the country.

Question 3d. Do you know of his having occupied a tract of land in California? and if so, state what you know of his occupation of it and its locality.

Answer. I do know of his having occupied a piece of land on the west side of the Sacramento river. He built a house about twelve miles above the junction of Sacramento and Feather rivers some time in the summer of 1844, but I do not remember the time of the year. There was wheat growing on it in the spring of

1845; he had upon the land a corral and stock, both horses and cattle. His family resided on the place until the war broke out, as mentioned above, between the United States and Mexico. The family live at this time on the place, but when they returned to it I do not remember. When they left, it was owing to the insecurity of the country on account of the war.

Question 4th. Look upon Exhibit A, to the petition filed in this case, and say whether the land described therein is the same upon which you have stated the said Knight to have occupied and his family?

Answer. It is the same land which I have referred to.

Cross-question by the U. S. Law Agent.

Cross-question 1st. To what extent was this land cultivated?

Answer. I think there was in cultivation some five or six acres.

SAMUEL J. HENSLEY.

The United States law agent appeared at the taking of this deposition, which was subscribed and sworn to before me, this fifth day of May, 1852.

HARRY J. THORNTON,
Com'r, &c.

Filed in office May 5th, 1852.

GEO. FISHER, *Sec'y.*

Deposition of N. A. Den.

SAN FRANCISCO, *Feb'y 9th*, 1853.

On this day, before Com'r H. Hall, came Nicholas A. Den, a witness in behalf of the claimant, James G. Morehead, petition No. 89, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

In answer to inquiries by counsel for claimant, the witness testified as follows:

My name is Nicholas A. Den; my age is forty years, and I reside at Santa Barbara. I have lived in California sixteen years. I was acquainted with William Knight from about the year 1843, when he came from New Mexico, bringing his family with him. He died in the fall of 1849, on the Stanislaus river, about forty miles from Stockton. He had a farm somewhere above Sacramento on Feather river, as I understand. I was appointed his administrator by the judge of the first instance, but the season did not permit my going to his farm; and afterwards another administrator was appointed. I was at the place of his death within two or

three days after his decease. He was residing there temporarily in a tent. I examined his effects that were there, and no papers were found relating to the title to his land. I had heard him frequently speak of his having title papers, but they were not shown me. Exhibit A, filed in this case, is now shown me; I have compared it with the original in the office of the United States surveyor general, and find it to be a true copy. I am acquainted with the handwriting and signature of Pio Pico, Wm. Knight, and José Marias Moreno, and their signatures on the original in said surveyor general's office I believe to be genuine.

In answer to questions by the associate law agent, the witness says he was never at the farm of said Knight, but believes it to be the land described in Exhibit A before mentioned.

In answer to questions by the counsel for the claimant, the witness says that said Knight went as courier for the government to the southern part of department to get the people to join Gov. Micheltorena in suppressing an insurrection in the latter part of the year 1844, or the beginning of 1845. It was then considered as a dangerous and important service. I did not hear that the grant was made in consideration of those services.

In answer to inquiries by the associate law agent, the witness says he was under the impression the grant had been made by Gov'r Micheltorena. I heard Knight speak of there being squatters on his land, but do not recollect their names, if he mentioned them.

N. A. DEN.

Sworn and subscribed before me.

HILAND HALL,
Com'r, &c.

Filed in office Feb'y 9th, 1853.

GEO. FISHER, *Sec'y.*

Deposition of Jose Maria Covarrubias.

SAN FRANCISCO, *Feb'y* 10, 1853.

On this day, before Com'r Hiland Hall, came José Maria Covarrubius, a witness in behalf of the claimant, James G. Morehead, petition No. 89, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

In answer to questions by counsel for the claimant, the witness testified as follows:

My name is José Maria Covarrubias; my age is forty-four years, and I reside in Santa Barbara. I held the office of secretary of the department of the Californias while Pio Pico acted as governor, during the latter part of 1845 and beginning of 1846, and as secretary I had charge of the archives of the government. I was acquainted with the mode and customs of the government in regard to issuing and keeping records or notes of land titles. A paper is now shown me being a certified copy from the United States surveyor general of the espediente in the case of William Knight, being Exhibit A filed in this case. The two last half sheets on traced paper of said Exhibit A is the first draft of the title paper, from which the title which was issued to the party was copied. It was the custom of the office to keep such first drafts of titles and to attach them to the expediente. The draft was not a record, but was kept as a memorandum of the grant. In the time of Gov'r Figueroa it was the custom to keep exact copies of each of the titles issued in a book kept for the purpose. After that time it was the custom to make a note of the grant in the book without copying it in full. And there was then no other copy kept except the first draft before mentioned.

After an entry by the governor upon the margin of the petition in favor of the title, the secretary prepared a formal decree in favor of it, which was signed by the governor, upon which it was the duty of the secretary to make a draft of the title papers from which the title papers issued to the party was copied and signed by the governor and secretary. The formal decree before mentioned was the real decree of concession of the land.

Question by the Associate Law Agent.

In case of a difference of terms between the decree of concession and the title signed by the governor and delivered to the party, which document would you consider valid?

Answer. I consider the title delivered to the party would be in preference the valid one. It is a question of law which may be argued.

JOSÉ MARIA COVARRUBIAS.

Sworn and subscribed before me.

HILAND HALL,
Com'r.

Filed in office Feb'y 10, 1853.

GEO. FISHER, *Sec'y.*

Deposition of Jose Matias Moreno.

OFFICE OF THE BOARD OF COMMISSIONERS
OF CALIFORNIA LAND CLAIMS,
San Francisco, April 18th, 1853.

Deposition of Jose Matias Moreno, taken this day before me, John Heskith, a notary public, in the presence of Robert Greenhow, esquire, law agent, in the claim presented before the land commission by James Morehead, administrator of William Knight, deceased, for the rancho de Carmel, in the county of Yolo.

Questions by Claimant.

Question. What is your name, age, and place of residence?

Answer. My name is Jose Matias Moreno; my age thirty-five years; my residence is in San Diego.

Question. Did you know William Knight, the petitioner in this case?

Answer. I knew him in Los Angeles in the years 1845 and 1846.

Question. Do you remember anything of the said William Knight presenting a petition for land to the governor of California in 1846?

Answer. While I was secretary of the government in May, 1846, I remember the said William Knight presenting a petition for a certain tract of land on the Sacramento, and the governor issued a decree for a title to the land prayed for; which title was accordingly issued.

Question. Look at the paper marked Exhibit A, on file in this case, and say whether the writing on the 3d and 4th pages is, so far as you know, a copy of the decree aforementioned.

Answer. I have examined the same paper, and believe it to be a copy of the said decree, signed by Pio Pico as governor, and by myself as secretary.

Question. Look at the paper on pages 6th and 7th of said Exhibit A, and say whether you recognise the said writing to be copy of the title above referred to.

Answer. I have examined it, and believe it to be a copy of the title issued to Mr. Knight.

Question. Was the original title, of which this is a copy, delivered to Mr. Knight, and by whom?

Answer. The original title was delivered to Mr. Knight by myself, as secretary.

Question. When did you cease being secretary to the government?

Answer. I continued in that occupation until 1848. I emigated with Governor Pico from California, but I preserved my commission as secretary.

Question. What was done with the archives when you emigrated?

Answer. I left Los Angeles in August, 1846, at which time the papers were packed up by order of the governor, under my direction, and delivered in deposit to Don Luis Vignes, of Los Angeles; that is the last I have seen of the papers.

Question. Did you intend to remain in San Francisco some weeks longer?

Answer. I am not perfectly certain, but I expect to leave for San Diego in a day or two, where I reside.

JOSE MATIAS MORENO.

Additional Question by the Law Agent.

Is the rubrica which you have used in the above signature the same as you used while secretary of the government?

Answer. This is not the rubric which I used while secretary, having changed it for the present one, which is more convenient.

JOSE MATIAS MORENO.

Subscribed and sworn to this 18th day of April, A. D. 1853, before me.

JOHN HESKITH,
Notary Public.

Admitted subject to objection in future.
San Francisco, April 18, 1853.

ROBERT GREENHOW.

The within deposition, sworn and subscribed before me, this eighth day of June, A. D. 1853; the said witness, the law agent, and Mr. Jones, attorney for the claimant, being present, and Mr. Greenhow, acting as interpreter, by consent of the claimant's attorney, and being duly sworn by me for that purpose.

ALPHEUS FELCH,
Com'r.

Filed in office June 8th, 1853.

GEO. FISHER, *Sec'y.*

[1 S. D. K.]

1846.

Espediente promovido por el ciudadano naturalizado, Guillermo Knight en pretencion de diez sitios de ganado mayor en el terreno conocido con el nombre de "Carmel" en los limites del rio Sacramento y los tulares.

No. 550.

Exhibit A.—Espediente.

[2 S. D. K.]

Ex. S'or Guillermo Knight natural de los Estados Unidos del norte y Mexicano por naturalizacion ante S. E. con el debido respeto comparesco y digo que encontrandome cargado de una muy numerosa familia, me es de suma necesidad para proporcionarle su mantencion, se me adjudique por su superioridad un pedazo de terreno para con un producto poderles subministrar aquella segun deseo: Por cuya circumstancia y fiado de la venevolencia de S. E. me tomo la libertad de suplicarle se serva concederme el pedazo que se señala en el adjunto diseño, siendo mas ó menos de diez sitios de ganado mayor, el cual queda en los limites de los tulares, del rio Sacramento colindando por el este con el espresado rio por el sur con el rancho de D. Tomas Hardy y el de Don Julian Gordon llamado Jesus Maria por el oeste siguiendo el arroyo de Jesus Maria, con las Lomitas primeras que se encuentran y por el norte con tierras valdias. En dicho estado y segun el informe que acompaño, á S. E. del S'r Juez de Sonoma parece no hay impedimento de parte para dicha consecion.

[3 S. D. K.]

Por lo que A. S. E. rendidamente ruego y suplico se sirva consederme el espresado terreno, con cuya gracia es probable quedara cubierta la gran necesidad que tengo: y he hecho presente: obligandome por tanto al satisfacer el gravamen que se me imponga al t'po de darseme la correspond'te posecion. Juro la no malicia y lo necesario, &c., sirvase admitir esta en papel comun por falta del sellado.

Sonoma, F'bro 1o, de 1846.

WI'M KNIGHT.

ANGLO., *Mayo* 4, *de* 1840.

Como lo pide la parte ubrese el titulo por el secretario del despacho.

PICO.

[4 S. D. K.]

ANGELES, *Mayo* 4, *de* 1846.

Vista la peticion con que da principio este espediente: el informe del alcalde 1o de Sonoma con todo lo demas que se tubo presente y ver convino de conformidad con la ley de 18 de Agosto, de 1824: y reglamento de 21 de Noviembre, de 1828, declaro á Don Guillermo Knight, diceño de diez sitios de ganado mayor, en el terreno limites de los tulares del rio Sacramento, colindante por el este con el espresado rio, por el sur con el rancho de Dn. Tomas Hardy y

el de Julian Gordon, llamado Jesus Maria, por el oeste siguiendo el arroyo de Jesus Maria con las Lomitas primeras que se encuentran y por el norte con tierras valdias.

[4 S. D. K.]

Libresele el titulo correspondiente y reservese el espediente para someterlo á la aprovacion de la ex'ma asamblea departament'l.

El ciudadano Pio Pico, gobernador constitucional del departam'to de Californias, asi lo mando, decreto y firmo de que doy fée.

PIO PICO.

JOSE MATIAS MORENO, *S'rio.*

[5 S. D. K.]

Pio Pico, Gobernador Constitucional del Departam'to de Californias.

Por cuanto el ciudado Guill'o Knight, Mejicano por naturalizacion, ha pretendido para su beneficio personal y el de su familia el un terreno conocido bajo el nombre del Carmel.

[6 S. D. K.]

Pio Pico, Gobernador Constitucional del Departamento de Californias.

Por cuanto el ciudadano por naturalizacion Guill'o Knight, ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de Carmel, en los limites del rio de Sacramento, colindante por el este con el espresado rio por el sur con el rancho de Dn. Tomas Hardy y el de Dn. Julian Gordon llamado Jesus Maria, por el oeste siguiendo el arroyo de Jesus Maria, con las lomitas primeras que se encuentran y por el norte con tierras valdias: practicadas previam'te las diligencias y averiguaciones consernientes seg'n lo dispuesto por la ley de 18 de Agosto, de 1824, y reglamento de 21 de Noviembre, de 1828, usando de las facultades que me son conferidas á nombre de la nacion Mejicana, he venido por decreto de este dia en concederle el mencionado terreno, declarandole la propiedad de el por las presentes letras sugetandose á la aprovacion de la ex'ma asamblea departam'tl y á las condiciones siguientes:

[7 S. D. K.]

1a. Podra cercarlo sin perjudicar las travesias, caminos, y servidumbres, lo disfrutará libre y esclusivamente destinandolo al uso ó cultivo que mas le acomode, pero dentro de un año fabricara casa y estará habitada, y el sitio habrá bienes semovientes.

2a. Solicitará del juez respectivo que le dé la posecion en virtud de este despacho por el cual se demarcarán los linderos y en cuyos limites pondrá á mas de las mojoneras algunos arboles frutales ó silvestres de alguna utilidad.

3a. El terreno de que se le hace donacion es de diez sitios de ganado mayor segun esplica el diseño que corre en el espediente.

El juez que le diere la posecion lo harâ medir conforme á ordenanza que dando el sobrante que resulte á la nacion para los usos convenientes.

4a. Si contraviniere á estas condiciones perdéra su d'ho al terreno y será denunciable por otro que tenga necesidad y lo pretende.

En consecuencia mando que teniendose por firme y valedero este titulo se tome razon de el en el libro á que corresponde y se entregue al interesado para su resguardo y demas fines.

Dado en la ciudad de Los Angeles, en este papel comun por no haber sellado, á cuatro de Mayo, de mil ochocientos cuarenta y seis.

PIO PICO.
JOSÉ MATIAS MORENO,
S'rio.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office and under my charge and custody a portion of the archives of the Spanish and Mexican territory or department of Upper California, do hereby certify that the seven preceding and hereunto annexed pages of tracing paper, numbered from one to seven inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents now on file and forming part of the said archives in my office.

In testimony whereof I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office,) at the city of San Francisco, California, this 5th day of January, 1852.

[SEAL.]

SAM'L D. KING,
Surv'r Gen'l, Cal'a.

Filed in office March 3d, 1852.

GEO. FISHER, *Sec'y.*

Order of Survey.

For the purpose of determining with precision and certainty the limits and boundaries of the land claimed by the representatives of Wm. Knight, deceased, in their petition No. 89, it is, on motion of the counsel for claimants, ordered, that an initiatory survey under the superintendence of the United States surveyor general for California be made of the lands known by the name of Carmel, to the extent of ten sitios de ganado mayor, within the limits of the river Sacramento, and the other boundaries described in the grant of said tract, having reference to the said description and to the different boundaries and calls therein expressed, but in such a manner as to confine such location within the limits therein

mentioned, and to include in the survey so to be made the said quantity of ten sitios.

But this order is not in any manner to determine as against the United States the question of title, the construction of the grant, the location, boundaries, or extent of the land to which the claimant may be entitled.

Filed in office Aug. 14, 1852.

GEO. FISHER, *Sec'y.*

Translation of Espediente.

Most Excellent Sir:

I, William Knight, a native of the United States of America, and naturalized Mexican, before Y. E. with due respect appear and state, that having upon myself a very large family to support, it is of utmost necessity for their subsistence that a tract of land should be appropriated to me by the superior authority, in order that I may, by cultivating the same, be able with its production to support them as I desire; for which reason, and trusting in Y. E.'s benevolence, I take the liberty to ask, Y. E. will be pleased to grant me the tract set out in the annexed map, its extent being ten "sitios de ganado mayor," more or less; which tract lies at the limits of the "Tulares" of Sacramento river, being bounded on the east by the said river; on the south by the rancho of Don Tomas Hardy and Don Julian Gordon, called "Jesus Maria;" on the west following the brook (arroyo de) Jesus Maria by the first little hills that one comes to, and on the north by vacant lands. Thus, and according to a report which I annex hereto of the magistrate of Sonoma, there seems to be no obstacle on the part of any one to its concession.

Therefore I humbly ask and pray Y. E. will be pleased to grant me the said tract of land, by which concession I shall be likely guarded against the necessity under which I am laboring, as above stated; and also I bind myself for the payment of such tax as I may be imposed at the time of giving me possession of the same. I swear I do not entertain any evil intent, and as required, &c.

Y. E. will admit this petition on common paper, in consideration of there being none stamped to be procured.

WM. KNIGHT.

Sonoma, Feb'y 1st, 1846.

(The following is written on the margin of the petition):

ANGELES, *May 4th*, 1846.

Granted as prayed by the petitioner. Let a title be issued by the secretary of the department.

PICO.

(The following decree comes next to the above petition):

ANGELES, *May 4th*, 1846.

In view of the petition wherewith this espediente begins, and the report of the first alcalde of Sonoma, and upon the whole matter as represented and was proper to be viewed, in conformity with the act of 18th of August, 1824, and regulation of 21st of November, 1828, I do hereby declare Don William Knight owner of ten "sitios de ganado mayor" of the land, limits of "Los Tulares" of "Sacramento river;" being bounded on the east by the said river; on the south by the rancho of Don Tomas Hardy and Don Julian Gordon, called "Jesus Maria;" on the west, following the (arroyo de) Jesus Maria by the first little hills that one comes to, and on the north by vacant lands.

Let a proper title be issued to him, the said William Knight, and the espediente be kept to be submitted for the approval of the right honorable the departmental assembly. Thus citizen Pio Pico, constitutional governor of this department of California, ordered it, decreed and signed, which I attest.

PIO PICO.
JOSE MATIAS MORENO, *Sec'y.*

Pio Pico, Constitutional Governor of the Department of Californias.

Whereas William Knight, a Mexican citizen by naturalization, has petitioned for his personal benefit, and that of his family, a tract of land known by the name of "Carmel," * * *

Pio Pico, Constitution Governor of the Department of California.

Whereas William Knight, a naturalized citizen, has petitioned for his personal benefit, and that of his family, a tract of land known by the name of "Carmel," at the limits of Sacramento river; being bounded on the east by said river; on the south by the "rancho" of Don Tomas Hardy and Don Julian Gordon, called "Jesus Maria;" on the west following the brook (arroyo de) "Jesus Maria" by the first little hills that one comes to, and on the north by vacant lands; all the proceedings and investigations concerning the same having been first had and made as required by the act of 18th August, 1824, and the regulation of 21st of November, 1828, in exercise of the powers conferred upon me in the name of the Mexican nation, I have, by decree of this day, granted to him, the said William Knight, the above mentioned tract of land; and I do, by these presents, declare to him the ownership thereof, to be subject to the approval of the honorable departmental assembly, and to the following conditions:

1st. He may enclose the said land without injury to the passages, roads and easements; enjoy it freely and exclusively; and apply it to such use or cultivation as may suit him best; but within one

year he shall build a house, and the same shall be inhabited, and there shall be some cattle thereon.

2d. He shall apply to a proper officer to give him possession thereof by virtue of this title, and at the time of such possession the boundaries shall be marked out, at the extremities of which he shall set, besides the landmarks, some fruit or useful forest trees.

3d. The tract of land which he is hereby granted is of the extent of ten "sitios de ganado mayor," as shown in the map which is attached to the "espediente." The officer who may give him possession shall cause the same to be measured according to ordinance, and the surplus thereof to remain to the nation for other convenient purposes.

4th. If he shall contravene these conditions he shall forfeit his right to said land, and shall be liable to be denounced by others who may require and shall apply for it.

Wherefore, I do order that this title be held firm and valid; a record thereof be made in the proper book, and afterwards to be delivered to the said William Knight, for his safety and other purposes.

Given at the city of Los Angeles, on this common paper for want of the stamped one, on the 4th day of May, in the year 1846.

PIO PICO,
JOSE MATIAS MORENO, *Sec'y.*

I, George Fisher, secretary to the United States land commission to ascertain and settle the private land claims in the State of California, do hereby certify that the foregoing is a true and correct translation of a Spanish document in case No. 89, wherein James Morehead, as administrator, &c., claims the rancho of "Carmel," now on file in this office.

In testimony whereof, I have hereunto subscribed my name.

Office of the secretary of said commission, San Francisco, Cal'a, this 13th day of February, A. D. 1854.

GEO. FISHER, *Sec'y.*

Filed in office Feb'y 14, 1854.

GEO. FISHER, *Sec'y.*

Letters of Administration—B.

STATE OF CALIFORNIA,
County of Yolo.

James G. Morehead is hereby appointed administrator of the estate of William Knight, deceased.

Witness H. Griffith, clerk of the probate court of the county of Yolo, with the seal of the court affixed, the 6th day of November, A. D. 1851.

By order of the court.

H. GRIFFITH, *Clerk.*

I, H. Griffith, clerk of the probate court in and for the county of Yolo, State of California, do hereby certify the foregoing to be a true and faithful copy of the original letters of administration issued to James G. Morehead, in the matter of the estate of William Knight, deceased, by order of the probate court.

{County Court, Yolo County, California.}

Witness H. Griffith, clerk of the probate court in and for the county aforesaid, with seal affixed, at office in Washington, this 6th day of November, A. D. 1851.

H. GRIFFITH, *Clerk.*

Filed in office March 3d, 1852.

GEO. FISHER, *Sec'y.*

Appointment of Administrator.

STATE OF CALIFORNIA,
County of Yolo.

In the Probate Court, said county.—Thursday, May 27th, A. D. 1852.

In the estate of the late William Knight, deceased.

In this case the resignation of James G. Morehead, administrator, being received and accepted, it is ordered by the court that G. M. Keene, pub'c administrator, be authorized to take charge of the said estate pro tem.

I hereby certify the foregoing to be a true copy of the original order of the court herein.

Witness my hand and seal of said court, this 25th day of August, A. D. 1852.

H. GRIFFITH,
Clerk Probate Court, Yolo Co.

Affidavit of G. M. Keene.

Before the board U. S. land commissioners for the State of California.

G. M. Keene, administrator of the estate of William Knight, dec'd, claimant of the rancho de Carmel, No. eighty-nine, (89.)

G. M. Keene, being first duly sworn, says, that he is administrator of said estate, and that as such he has made diligent search *amognst* the papers of the deceased for the original grant made to decedent by Governor Pio Pico, and has also made *deligent* inquiry in different parts of the State, wherever he supposed the same could possibly be found; and that, after such diligent search and inquiry he has been unable to find said original grant, or any trace of it, and he verily believes the same has been lost or destroyed; and further saith not.

G. M. KEENE.

Subscribed and sworn to before me, this 17th day of August, 1853.

Witness my hand and official seal at the city of Sacramento.

[SEAL.] R. H. STANLEY,
Notary Public, Sac'o.

Filed in office Sept. 26, 1853.

GEO. FISHER, *Sec'y.*

Opinion of the Board.

JAMES MOREHEAD, Administrator, &c., }
vs.
THE UNITED STATES. }

For the place called rancho de Carmel, situated on the Sacramento river, containing ten square leagues of land.

The petitioner describes himself in the petition as the administrator of William Knight, deceased, to whom he alleges a grant of the land claimed was made by Gov. Pio Pico, on the fourth day of May, 1846. The original grant is not given in evidence, nor is there any proof tending to show that the approval of the departmental assembly was ever obtained, or judicial possession of the premises given. The testimony shows that Knight died in the autumn of 1849, and by an *by on* affidavit made by his administrator, and the deposition of Nicholas A. Den, which is filed in the case, it is made to appear that the grant could not be found among the papers of the deceased, nor could any trace of it, upon diligent inquiry, be obtained. The testimony of José Matias Moreno, however, tends to show the issuing of the grant as alleged in the petition, and that a document attached to the espediente now in the archives, a traced copy of which is filed in this case, is a true copy of the grant thus issued.

The grantee in his original application for the land solicits it for the purpose of cultivating the same for the support of his family; and the grant contains the condition that within one year he shall build a house, and the same shall be inhabited, "and there shall be some cattle thereon." The testimony of Samuel J. Hensley, the only proof on the subject, shows that Knight occupied the land, built a house, and had some stock on it in the summer of 1844. He had about five or six acres of wheat growing on it in the spring of 1845. His family resided on it until the war broke out between the United States and Mexico. They left because of the insecurity of the country on account of the war. The family had returned to the place at the time the deposition was taken, in May, 1852. The improvement, cultivation, and occupancy of the premises mentioned by the witness, are all previous to the time when the grant was made. It is not definitely stated when the family of Knight left the place, but the statement that they left on account of the insecurity of the country enables us to refer it to a

period well known in the history of the times. The alarm of the American settlers on the Sacramento river took place the same spring when this grant was made. Col. Fremont returned to that portion of the country during the month of May, in which this grant was made, and the American settlers were at that time in the midst of excitement on account of reported orders for them to quit the country, the organization of an armed force in this neighborhood, and the apprehension of a hostile attack by the Indians in the vicinity. These alarms *begon* at a period earlier than the date of the grant, and continued until after the military organization was formed, which immediately succeeded, and which resulted in the conquest of the country. It was about the time, then, that this grant was made that the state of apprehension existed among the inhabitants on the Sacramento. Whether the family left the place before or immediately after the grant, we are not informed by the testimony. It must have been about that time. There is no evidence showing that they lived on the place after the grant. The place had wheat growing on it in 1845, before the grant, but there is no evidence that any crop was raised on it subsequently to that year; no documentary testimony shows that any stock was there after the grant was issued. As to Knight himself, the deposition of Matias, the secretary of the government, shows that he received the grant from his hands, which must probably have been at Los Angeles, where it was issued, and the testimony does not show that he returned to or was ever on the place after the grant was made.

Hensley says that he was with him in the service from the hoisting of the American flag until the conquest; and the witness Den testifies that Knight died in the fall of 1849, on the Stanislaus river, about forty miles from Stockton. On a view of all the testimony in the case, I think there is not enough shown to establish the performance of the condition of the grant. The place seems to have been abandoned by the party, who made no effort to return to it, after every impediment was removed, and to perform the condition of the concession.

The recent return of the widow and family to the place, long after the treaty of cession and new jurisdiction; have given an increased value to the land, cannot establish a right to the premises.

The claim must be rejected.

Filed in office Feb. 21, 1854.

Decree.

JAMES MOREHEAD, Administrator, &c., vs. THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged

by the commission that the said claim of the petitioner is not valid, and his application for a confirmation thereof is therefore denied.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office Feb. 21, 1854.

Order.

And it appearing to the satisfaction of this board, that the land hereby adjudicated is situated in the northern district of California, it is hereby ordered, that two transcripts of the proceedings and of the decisions in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the northern district of California, and the other be transmitted to the Attorney General of the United States.

Secretary's Certificate.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the Private Land Claims in the State of California.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing twenty-seven pages, numbered from 1 to 27, both inclusive, to contain a true, correct and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 89 on the docket of the said board, wherein James G. Morehead is the claimant against the United States, for the place known by the name of "Carmel."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this thirtieth day of October, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

[L. S.]

GEO. FISHER, *Sec'y.*

Endorsed: Filed November 2, 1854.

JNO. A. MONROE, *Clerk.*

Deposition of J. P. Leese.

UNITED STATES DISTRICT COURT,
Northern Dist. of California.

SAN FRANCISCO, *Dec.* 6, 1854.

On this day, before Alex. M. Schell, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c. &c., came Jacob P. Leese, a witness produced on behalf of the claimant in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn and testified as follows:

Present, U. S. dist. att'y, by A. Glassell, and V. E. Howard, counsel for claimant.

Questions by Claimant.

Question 1. Were you acquainted with Wm. Knight in his lifetime?

Answer 1. I was.

Question 2. Where did he reside in the year 1846?

Answer 2. He resided on a tract of land a little below Wm. Gordon's, (who lived on Cache creek,) between William Gordon's and the Sacramento river.

Question 3. Do you know anything of his occupying a ranch in that year? If so, where was it situated, and what was the character of his occupation?

Answer 3. I know that he occupied a ranch known as Knight's farm, situated, as I have before described, between Wm. Gordon's ranch and the Sacramento river. He had a house on this ranch, and his family were living in it; a portion of it was under cultivation and fenced; the last time I saw the ranch was in August, 1846; he was absent at the time with Col. Fremont's party, but his family resided there; the ranch was called "Carmel."

Cross-examined by U. S. Attorney.

Question 1. What were your means of ascertaining the facts as you have stated above?

Answer 1. Mr. Knight first applied through me as alcalde of the jurisdiction of Sonoma, asking for the grant of said land, which was decreed in his favor as vacant land in the year 1844; since that time I have passed it twice, once in 1845, and once in 1846; I have no interest in this grant in any way.

J. P. LEESE.

Sworn to before me, this 6th day of Dec'r, 1854.

ALEX. M. SCHELL,
U. S. Com'r.

Endorsed: Filed Dec'r 6, 1854.

JNO. A. MONROE, *Clerk.*

Deposition of Chs. F. Reed.

UNITED STATES DISTRICT COURT,
Northern District of Cala.

SAN FRANCISCO, *January* 24, 1855.

On this day, before W. H. Chevers, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Charles F. Reed, a witness produced on behalf of the claimant in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn and testified as follows:

Present, V. E. Howard, claimant's attorney, and U. S. attorney by A. Glassell.

Questions by Claimant's Attorney.

Question 1. What is your name, age, place of residence, and occupation?

Answer 1. Charles F. Reed; twenty-nine; Yolo county, Cal., and am a civil engineer by profession.

Question 2. Are you acquainted with the rancho called "Carmel," claimed in this case by James G. Morehead, as administrator of William Knight, deceased? If yea, please state how long you have been acquainted with it, and where it is situated.

Answer 2. I am acquainted with said rancho; I have been acquainted with it since the year 1849; it is situated in Yolo county, California.

Question 3. Do you know its boundaries? If yea, state them.

Answer 3. I do know its boundaries. It is bounded on the east by the Sacramento river; on the south by the rancho claimed by Thomas Hardy and that of Julian Gordon, called the "Jesus Maria;" on the west, following the creek of Jesus Maria, by the small hills first to be found on the westerly side, and on the north by vacant lands.

Question 4. Did you ever survey this rancho and the one adjoining, claimed by Hardy? If yea, state how you ran the lines of the same.

Answer 4. I surveyed a part of this rancho, and also a part of the one adjoining. I ran the division line between them.

Question 5. State whether you have any map of the same; and if so, attach it to your answer.

Answer 5. I have. This is the map marked "Exhibit A," and which is hereto annexed. I commenced running the division line between Hardy and this rancho. This is the only line I ran.

I began on the northwest corner of the claim of Hardy and ran on that line to the Sacramento river, it being about ten miles. I took an angle from the N. W. corner of Hardy's rancho, at the lomas, or hills, called for in Knight's grant, with the general direction of the small hills or lomitas. The eastern boundary, or the Sacramento river, I drew from surveys made by me at different times, as county surveyor of Yolo county. The northern boundary I drew by a calculation from the amount of land called for in the grant.

Question 6. Please state the character of the lomas or hills called for as the western boundary.

Answer 6. They are the first hills to be seen in going from the creek Jesus Maria, northerly and westerly from the Sacramento river.

Question 7. Is there any difficulty in executing this survey from the calls given in the grant?

Answer 7. None whatever, because there is no difficulty in finding the Sacramento river, the boundary line of Hardy, and the lomitas or hills. These three sides being given, I run north for quantity. The general topography of the country is level, except those small hills. There are no other hills in the vicinity. This rancho has been occupied by Mrs. Knight, the widow of Wm. Knight, deceased, and her children, since the year 1849; which is the time I first became acquainted with the place.

Cross-examined by U. S. Attorney.

Question 1. By what authority did you make the said survey; at whose request were you appointed deputy surveyor, if so, and from whom were you to receive your compensation?

Answer 1. At the request of claimants in this case; I was appointed deputy surveyor by Samuel D. King, at that time the U. S. surveyor general for California; I was to receive my compensation from the claimant.

Direct Examination resumed.

Question 8. Is the map which is annexed to this deposition, marked "Exhibit A," an accurate representation of the rancho "Carmel?"

Answer 8. It is accurate as to the division line between Hardy and Knight, the grantee, and as near an approximation as to the other lines as the nature of the survey would permit.

CHAS. F. REED.

Sworn to and subscribed before me, this 24th of January, A. D. 1855.

W. H. CHEVERS,
U. S. Commissioner.

Endorsed: Filed January 24, 1855.

JNO. A. MONROE, *Clerk.*

Exhibit A to Deposition of C. F. Reed.

[For map marked Exhibit "A," see original, page 39.]

Deposition of Jerome C. Davis.

United States District Court, northern district of California.

SAN FRANCISCO, *March* 22, 1855.

On this day, before W. H. Chevers, a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c., &c., came Jerome C. Davis, a witness produced on behalf of the claimant in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn and testified as follows:

Present, J. H. Brewer, esq., for claimant, and the U. S. attorney, by A. Glassell, esq.

Questions by Claimant.

Question 1. What is your name, age and place of residence?

Answer 1. Jerome C. Davis; 31 years of age; I reside in Yolo county, California.

Question 2. Were you acquainted with Mr. Knight, the grantee in this case, in his lifetime?

Answer 2. I was; I knew him from about the 1st May, 1846, up to the time of his death.

Question 3. When did he die?

Answer 3. I think in 1850.

Question 4. Where did he and his family reside in the year 1846?

Answer 4. They resided on the place known as Knight's rancho, on the Sacramento river, now known as and called Knight's landing.

Question 5. Did Mr. Knight cultivate any land in that year, 1846; and if yea, where was it situated?

Answer 5. He cultivated something like a garden, situated at the west of his house, where were growing some melons and corn. The garden was within about 200 yards of the house.

Cross-examined by U. S. Attorney.

Question 1. When were you first at the place; where was that cultivation, and how much land was there cultivated?

Answer 1. Between the 12th June, 1846, and the 5th July, 1846, where we camped one night. There were between one and three acres in cultivation, as near as I can recollect.

J. C. DAVIS.

Sworn to and subscribed before me this 22d day of March, A. D. 1855.

W. H. CHEVERS,
U. S. Comm'r.

Endorsed: Filed March 22, 1855.

JOHN A. MONROE, *Clerk.*

Petition for Review.

United States District Court for the northern district of Cal'a.

JAMES G. MOREHEAD, Adm'r of William Knight, vs. THE UNITED STATES. } Case No. 106.

To the U. S. District Court in and for said district:

The petitioner, James G. Morehead, respectfully represents, that the Mexican government for the department of California, through its regularly appointed and constituted agents, having lawful powers for that purpose, granted to petitioner's intestate, the said Wm. Knight, deceased, on the 4th day of May, A. D. 1846, a certain tract of land, containing ten leagues, situated in said northern district, being a portion of the department of California, at the date of the grant, which said tract was known by the name of Carmel; for a more particular description of which, reference being had to the grant itself, contained in the record of the board of U. S. land commissioners for the State of California, hereinafter referred to.

Your petitioner further alleges, that within one year from the date of said grant, the said William Knight, in his lifetime, took possession of the same, cultivated the land, erected a house thereon, which he and his family actually inhabited and resided in.

The petitioner further alleges, that said Knight departed this life on or about the day of 1850, and the petitioner was legally and duly appointed administrator of the estate of said Knight by the probate court of the county of ; and that by the laws of the State of California, the legal title to said land vested in the petitioner.

The petitioner further alleges, that the claim for confirmation of the title to said land was duly presented within the time required, to the board of U. S. land commissioners, organized under the act of Congress of March 3, 1851, to ascertain and settle the private land claims in the State of California, and such proceedings were regularly had before said board, that said claim was rejected by said board of commissioners, when, in fact, the same should have been confirmed, as the petitioner alleges; all of which will more fully appear by reference to the transcript of the pro-

ceedings and judgment herewith filed, and of record in this honorable court.

The petitioner, therefore, prays this court to review the decision of the said commissioners, to decide on the validity of said claim, and confirm the same according to law; and for all other and further relief to which the petitioner may be legally entitled.

HOWARD & PERLEY,
Atty's for Claimant.

Endorsed: Filed April 7, 1855.
JNO. A. MONROE, *Clerk.*

Notice of Appeal.

United States District Court for the nor. district of Cal'a.

JAMES G. MOREHEAD, Adm'r of William Knight,
vs.
THE UNITED STATES.

To Samuel W. Inge, Esq., District Attorney for said district:

You are hereby notified that the plaintiff above named will prosecute an appeal in the above case for a confirmation of his claim, which was rejected by the U. S. land commissioners for the State of California, a board organized by act of Congress of March 3, 1851.

San Francisco, April 18, 1855.

V. E. HOWARD,
For Appellant.

Endorsed: Filed April 19, 1855.
JNO. A. MONROE, *Clerk.*

Affidavit of J. G. Morehead.

STATE OF CALIFORNIA,
Sacramento County.

James G. Morehead, being duly sworn, says that since his appointment by the probate court of Yolo county, in said State, as administrator of the estate of William Knight, deceased, he has made diligent inquiry and search for the original grant, from the governor of California to said Knight; and that said search by him extended to and among all the papers of said estate, and wherever else he thought it possible to find the same; and that he inquired of all persons who knew the deceased in his lifetime, and shortly before his death, but affiant says he could neither find said original paper, nor learn anything of its existence; therefore affiant says he verily believes the same has been lost or accidentally destroyed.

JAMES G. MOREHEAD.

Subscribed and sworn to before me, this 25th day of June, 1855.
R. H. DAWLEY, *Notary Public Sac'o Co.*

Endorsed: Filed June 29, 1855.
JNO. A MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

STATE OF CALIFORNIA,
County of Yolo.

Be it remembered, that on the 30th day of October, A. D. 1851, the following proceedings were had in the probate court of said county, to wit:

Certificate from Clerk Probate Court, Yolo County.

In the matter of the Estate of William Knight, deceased.

This day appeared before the court J. G. Morehead, and moved the matter of a petition filed by him, praying for letters of administration on the estate of this deceased, and the applicant was duly sworn in support thereof satisfactorily; and it appearing that the proper notices of this application were given according to law, and that applicant has been recommended as admin'r by the widow and one of the children of the deceased, and that he is a fit and proper person to be appointed such administrator, ordered by the court that letters of administration do accordingly issue to J. G. Morehead over the estate in this case, on his filing bond, with sufficient sureties, in the sum of four thousand dollars.

And on the 6th day of November, A. D. 1851, the following proceedings were had, to wit:

Estate of William Knight.—In probate office, November 6th, 1851. James G. Morehead this day filed his bond, which was approved by the probate judge, and letters of administration were issued accordingly.

HENRY HARE HARTLEY, *Co. J.*

STATE OF CALIFORNIA,
County of Yolo.

I, R. H. Baskett, clerk of the probate court within and for said county, do hereby certify that the foregoing are true and perfect copies of entries made in the minutes of said court on the days above mentioned, as appears of record in this office.

In witness whereof, I have hereunto set my hand and affixed [SEAL.] the seal of said court this 26th day of June, A. D. 1855.

R. H. BASKETT,
Clerk of Probate Court, Yolo Co.
By E. BYNUM, *Deputy.*

Endorsed: Filed June 29, 1855.
JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Deposition of S. N. Chase.

STATE OF CALIFORNIA,
County of Napa, ss.

On this 17th day of July, one thousand eight hundred and fifty-five, appeared before me, a justice of the peace in and for said county, duly authorized to administer oaths within and for said county and State, Samuel N. Chase, aged thirty-seven years, resident of Napa county, in said State, who being duly sworn according to law, declares that he was on Knight's ranch, situated on the Sacramento river, on or about the last day April, one thousand eight hundred and forty-six (1846), and that William Knight was on his ranch at that time engaged in his agricultural pursuits.

SAMUEL N. CHASE.

Subscribed and sworn to before me, this day and year above written.

WESLEY VAUGHN,
Justice of the Peace.

(Filed under stipulation.)

Affidavit of Sam'l R. Smith.

STATE OF CALIFORNIA,
County of Yolo, ss.

On this 18th day of July, one thousand eight hundred and fifty-five, appeared before the undersigned, the judge of the county court of said county of Yolo, duly authorized to administer oaths within and for said county and State, Samuel R. Smith, aged twenty-seven years, resident of Yolo county, in said State, who being duly sworn according to law, declares the distance from Knight's ranch (known as Carmel, upon the Sacramento river) to Los Angeles to be between seven and eight hundred miles, and that the length of time usually occupied in going from said Knight's ranch to Los Angeles to be from twenty to twenty-five days. During the period of time from 1845 up to the year 1850, and during the spring, in April and May, the waters generally being high, it is almost impossible to travel said road to Los Angeles.

SAMUEL R. SMITH.

Sworn and subscribed before me, the date above written.

H. GWINN,
J. C. C., Yolo County, Cal.

Filed under stipulation.

Affidavit of J. C. Davis.

In the United States District Court for the northern district of the State of California.

JAMES G. MOREHEAD, Adm'r of the estate of Wm. Knight, dec'd,
vs.
THE UNITED STATES.

J. C. Davis, being duly sworn, says that he was in the "camp" of Col. Fremont near the "Buttes" on or about the 5th day of June, A. D. 1846, when William Knight came to the encampment and gave information that all Americans in California would be ordered by the government to leave the country. It was then suggested by some one that he, Knight, would in that event lose his rancho, to which he replied that he had just returned from the "lower country," (by which affiant understood the southern part of this State,) where he had procured his title-papers for the land, and at the same time he took from his pocket certain papers which he said were his title-papers, but as affiant did not read Spanish he did not examime the papers.

J. C. DAVIS.

Subscribed and sworn to before me, this 24th day of July, 1855.
B. D. FRY, *J. P.*

STATE OF CALIFORNIA,
County of Sacramento, ss.

On this 24th day of July, A. D. 1855, personally appeared before me J. C. Davis, who being duly sworn according to law, says that the matters and things set forth in the foregoing affidavit are true to the best of his knowledge and belief, and subscribed the same in my presence.

Given under my hand this 24th day of July, 1855.
B. D. FRY, *J. P.*

Endorsed: Filed August 1, 1855.
JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Stipulation as to Affidavits.

In the District Court of the United States for the northern district of California.

In the matter of JAMES G. MOREHEAD, Adm'r, &c., of the estate of Wm. Knight, deceased,
vs.
THE UNITED STATES.

This is a stipulation between the counsel for the respective par-

ties that the two affidavits of Samuel N. Chase and Samuel R. Smith heretofore introduced in this cause on a motion to open the same for further trial, &c., and also the affidavit of J. C. Davis since filed, be admitted as evidence for all purposes on the trial and determination of the said cause, as fully as if the same were regularly taken depositions of the said affiants.

This July 31, 1855.

A. GLASSELL,
Ass't U. S. Att'y.
V. E. HOWARD.
For Claimant.

Endorsed: Filed August 1, 1855.
JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Affidavit of Sam'l Neal.

District Court of the United States for the northern district of Cal'a.

MOREHEAD, Admin'r, vs. THE UNITED STATES. } No. 106. "Carmel."

Samuel Neal, a resident of Butte county, being duly sworn, on his oath, says that he has resided in said county most of the time during the last ten years; was acquainted with Wm. Knight, of whose estate the above claimant is administrator; that said Knight was living at the time he first became acquainted with him at what was known as "Knight's ranch," on the Sacramento river, above Feather river. This deponent left Lawson's ranch, in the Sacramento valley, some time in the month of May, 1846, and returned to the "Buttes" from Monterey about the 1st day of June, 1846, and then found Fremont encamped at the "Buttes," and there found the said Wm. Knight in the same camp with Col. Fremont; am pretty confident that was about the 1st day of June, 1846. That season (spring of 1846) was a very wet one; all the streams in the country were overflowed, and travelling very difficult and dangerous. A short time previous to this last mentioned trip to Monterey, I made the attempt to go down from Lawson's ranch by the same route, but failed to succeed, as the streams were so high that I found it impossible to proceed, and returned by the way of Sancelito. This deponent is confident that to have made the trip from Sacramento valley to Los Angeles during the spring of that year, it would have required a large number of the best horses, and would have taken at least thirty-five days, (if it could have been done at all.) This deponent brought the first news with him, on his trip from Monterey, of what was being done by the Califor-

nians in the lower part of the country; he found at San Jose, or near there, a force organized under Castro for the purpose of acting against the Americans in the north. When he arrived at Fremont's camp on or about the 1st of June, no one had heard of those proceedings; heard nothing whatever of Mr. Knight's having been absent from Sacramento valley at any time during that spring.

SAMUEL NEAL.

Sworn to and subscribed before me this 6th day of November, 1855.

JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS,
Deputy Clerk U. S. Dist. Court N. D. Cal'a.

Endorsed: Filed November 6, 1855.
JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Affidavit of Stephen Cooper.

In the District Court of the United States for northern district of Cal'a.

MOREHEAD, Adm'r of Knight's estate, &c., vs. THE UNITED STATES. } "Carmel." No. 106.

Stephen Cooper, a resident of Colusi county, being duly sworn, on his oath says, that from 1847 to the period of his death, in 1849, deponent was well acquainted with William Knight, of whose estate the above claimant is administrator; that at, or rather shortly after, Knight's death, his widow delivered to deponent all evidence of title to the land or ranch in controversy, consisting of a plot for three leagues of land, accompanied by a written statement from J. P. Leese, alcalde of Sonoma, stating the land indicated in the plot could not be granted to Knight, as the same had formerly been granted to Thomas Hardy; also another plot well drawn for eleven leagues of land bordering on the Sacramento river, lying on the northerly side of Hardy's grant, and by offset of one half league made to touch Gordon's grant on the north side, running two leagues in length by one in width; then by another offset to Cache creek; then up the creek to hills or base of Coast range, &c. Accompanying this last plot was a written communication to Capt. Sutter from Micheltorena, then Gov. of California, referring the application to Capt. Sutter for his action in the premises, to concede or grant the land to Knight, or refuse the same. There was no paper signed by any one, except a petition signed by Knight, the paper signed by Leese, alcalde, and the document signed by the governor, Micheltorena, directed to Capt. Sutter; there was no pe-

tition to Gov. Pio Pico for land, and no grant or paper found among Knight's papers at his decease, of the character of the grant or paper set forth in claimant's testimony in this case, purporting to be a formal grant for eleven leagues of land to Knight, signed by Pio Pico, Gov., and attested by Moreno, secretary, and dated about the 4th May, 1846. If such paper had been in existence, I certainly think I would have seen or heard something concerning it, before this claim was filed in the office of the U. S. land com'rs. I rec'd from the widow of Knight all the papers, of which she had any knowledge, concerning the land in controversy in 1849; but never rec'd or saw, or heard tell of this Pico grant; and tho' deponent was an intimate friend and associate of Knight's for more than two years before his death, deponent never heard Knight say or claim to have any grant to said rancho from Pico, Micheltorena, or any one else, for said land. I delivered all the papers of every kind that ever came to my hands, concerning said ranch "Carmel," to Wm. McDonald, of Benecia; and, so far as I know, he has them yet.

STEPHEN COOPER.

Sworn to and subscribed this 6th day of November, 1855, before me.

JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS,
Deputy Cl'k U. S. Dist. C't N. D. of Cal'a.

Endorsed: Filed November 6, 1855.

JNO. A. MONROE, *Cl'k.*
By W. H. CHEVERS, *Deputy.*

Affidavit of D. M. Berry.

In District Court of the U. States for northern district of California.

MOREHEAD, Adm'r of Knight's estate,
vs.
THE UNITED STATES.
} No. 106. "Carmel."

Daniel M. Berry, being duly sworn, says he resides in Solana county, California; is aged sixty-two years. I came to California in 1846—arrived in Sept. of that year—and have resided in California from that date to the present. I was acquainted with Wm. Knight, (now dead.) I first saw him at Sutter's fort on the last of September, or first of October, 1846, near where Sacramento city now stands, at which place I made a bargain with Knight to go and take charge of his family, stock, and ranch, for one year. I went immediately to the place where Knight then lived, which was on the Sacramento river, about ten miles above the junction of Feather river, on the left-hand side of Sacramento river as you go up. I left Knight's place some time in Sept., 1847. Knight came home from the army (Frémont's) in May or June, 1847, and after

that time I had repeated conversations with him about the ranch or land he there claimed. I wanted to buy land of Knight, and he refused to sell to me, saying, I sent my papers down the country by John Bidwell to get the governor to sign them, or give him a title to the ranch; but Bidwell did not get them, but got his own papers for his ranch, and brought his, Knight's, back without having done anything with his, Knight's, and abused Bidwell for not getting his grant from the governor. Knight said he was fearful he would lose his land, but Frémont was his friend and would aid him in perfecting his title; that he had the "alcalde's papers for it," which was some evidence that he ought to have the land. Similar conversations to this occurred between us in the months of May, June, and up to September, when I left. I was induced to leave the ranch for the reason that I could not buy or secure a title to land; went to Bidwell's ranch, staid there a few months, and thence to Suisun valley, where I have since resided and now reside.

D. M. BERRY.

Sworn to and subscribed before me this 10th day of November, A. D. 1855.

GEO. PEN JOHNSTON,
U. S. Commissioner.

Endorsed: Filed Nov. 10, 1855.

JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Deposition of N. A. Den.

United States District Court, northern district of California.

JAS. G. MOREHEAD, Adm'r,
vs.
THE UNITED STATES.

SAN FRANCISCO, *November* 24, 1855.

On this day, before John A. Monroe, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came N. A. Den, a witness produced on behalf of the claimants in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn and testified as follows:

Present, Volney E. Howard, att'y for claimants, and the United States district att'y by A. Glassell, esq.

1st question by claimants. What is your name, age and place of residence?

Answer. N. A. Den; 45 years of age; and reside in Santa Barbara, Cal.

2d question. Are you acquainted with the signatures of Pio Pico and José Matias Moreno? and if yea, state your means of knowledge.

Answer. I am well acquainted with the signatures of those parties; I was judge of 1st instance in 1845, and have had official communications with Pio Pico, and have seen him write often; I have also seen the said Moreno write often.

3d question. Have you, at any time, examined, in the U. S. surveyor general's office of this State, the espediente of a grant of land by Gov. Pio Pico to William Knight?

Answer. I have; and I am positive that the signatures of Pio Pico and José Matias Moreno, as they appear on said expediente, are in their own handwriting. The first marginal decree is, to the best of my belief, in the handwriting of Pio Pico.

4th question. Have you compared the traced copy of the first two decrees for title, now here shown you, and made part of this deposition, with the originals on file in said surveyor general's office? and if yea, state whether they are true copies of the same, and whether the signatures of said Pico and Moreno, where they appear on said original, are their own true and genuine signatures.

Answer. I have looked over said original papers on file in said surveyor gen'l's office, and believe the traced copies hereto attached are true copies of the above, and have not the slightest doubt but that those signatures are genuine; also, the grant I believe to be genuine.

5th question. Were you acquainted with Knight in his lifetime; and did you see him at any time in the spring of 1846? if yea, state where.

Answer. I knew said Knight first in 1843 or 1844; I saw him in Santa Barbara some time in the spring of 1846, either in March, April or May.

6th question. Do you know where he was going at the time?

Answer. He told me that he gas going to Los Angeles; I saw him on his return; he told me he had been to that place.

7th question. Did you know what his business was in Los Angeles?

Answer. Part of his business there was concerning his title to his farm; so he told me; I think he told me he had finished his business and had got his papers; I think he told me he had gotten the grant for his land, and from other sources I heard the same; a short time after this, I was in Los Angeles, and from the best of my memory, in looking over the archives, I saw evidence of his having done as he had told me.

8th question. What time did it usually consume to ride from Los Angeles to Sutter's fort?

Answer. About eight days; Knight was always considered to be

a good and fast rider, and on this account he was often chosen to ride express for the government.

Cross-examination waived by U. S. dist. att'y, but the witness's answers were objected to as being irrelevant and hearsay.

N. A. DEN.

Sworn to and subscribed before me, November 24th, 1855.

JOHN A. MUNROE,
U. S. Commissioner.

Exhibit A.

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ANG'S, *Myo.* 4 *de* 1846.

Como lo pide la parte librese el titulo por el Secretario del despacho.

PICO.

ANGELES, *Mayo* 4 *de* 1846.

Vista la peticion con que da principio este espediente el informe del alcalde 1o de Sonoma, con todo lo demas que se tubo presente y ver convino, de conformidad con la ley de 18 de Agosto de 1824, y reglamento de 21 de Noviembre, de 1828, declaro a Don Guillo. Knight, diceño de diez sitios de ganado mayor, en el terreno limites de los tulares del rio Sacramento, colindante por el este con el espresado rio, por el sur, con el rancho de Dn. Tomas Hardy y el de Dn. Julian Gordon, llamado Jesus Maria, por el oeste, siguiendo el arroyo de Jesus Maria con las lomitas primeras que se encuentran y por el norte con tierras valdias.

Libresele el titulo correspondiente y reservese el espediente para someterlo a la aprovacion de ex'ma asamblea departamental. El ciudadano Pio Pico, gobernador constitucional del departamento de Californias, asi lo mando decreto y firmo de que doy fé.

PIO PICO.
JOSE MATIAS MORENO, *S'rio.*

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States, for the State of California, and as such, having in my office, and in my charge and custody, a portion of the archives of the former Spanish and Mexican territory or department of Upper California, by virtue of the power vested in me by law, do hereby certify that the three preceding and hereunto annexed pages of tracing paper, numbered from one to three inclusive, exhibit a true and accurate copy of certain portions of a document entitled, "1846." Espediente promovido por el ciudadano naturalizado Guillermo Knight en pretencion de diez sitios de ganado mayor en el terreno conocido con el nombre de "Carmel" en los limites del Rio Sacramento y los Tulares "No. 550," now on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San Francisco, this nineteenth day of October, 1855.

[SEAL.]

JOHN C. HAYS,
U. S. Surveyor General for California.

Extract from the 2d section of the act of Congress "providing for the survey of public lands in California, and for other purposes," approved March 3d, 1855.

"The Secretary of the Interior is hereby authorized to cause an official seal to be prepared for the office of the said surveyor general, (California,) and any copy or extract from the plats, field-notes, and other records and documents on file in his office, when attested as such by the said seal and the signature of the surveyor general, shall, in all judicial matters, have the same force and effect as the original."

Endorsed: Filed November 24th, 1855. John A. Monroe, clerk. By W. H. Chevers, deputy.

Deposition of Jno. Bidwell.

United States District Court, northern district of California.

SAN FRANCISCO, *December 3d*, 1855.

On this day, before me, Geo. Pen Johnston, a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c., &c., came John Bidwell, a witness produced in behalf of the United States in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn and testified as follows:

THE UNITED STATES OF AMERICA
vs.
JAMES G. MOREHEAD,
Adm'r of Wm. Knight, dec'd.

Present, U. S. att'y in behalf of the U. S.; and Volney E. Howard, esq., on behalf of the claimant.

Questions by U. S. Att'y.

What is your name, age, and place of residence?

My name is John Bidwell; my age is thirty-six years, and I reside at Chico, Butte co., Cal'a.

Were you acquainted with the late Wm. Knight?

I was.

How long did you know him?

I knew him from the spring of 1843 until his death.

Did you know anything with regard to his obtaining, or attempting to obtain a tract of land from the Mexican government, located on the Sacramento river? If yea, state what you know in regard thereto.

In the spring of 1844, Mr. Knight made out a petition to the alcalde of the Sonoma district, asking for the necessary certificates of the vacancy of the tract of land on the Sacramento river, to enable him to obtain a grant of it from the governor; the petition was acceded to by the alcalde of the Sonoma district, Mr. Jacob P. Leese, and was referred to Gen'l J. A. Sutter, Juez de Paz for the Sacramento district, for further information; having obtained a favorable report from Gen'l J. A. Sutter, a petition was made out to the Mexican governor, asking, in the name of Wm Knight, for a tract of land on the Sacramento river; the tract of land in question was located on the Sacramento river above Cache creek, and is the same tract on which he afterwards resided, and embraces the point on Sacramento river now *know* as Knight's landing; the tract of land is also in Yolo county, Cal'a; Mr. Knight took the two petitions already mentioned, one to the alcalde and the other to the governor, to Monterey early in the spring (March) of 1844, and presented them to the governor, who referred them to the secretary of State, (the governor was Micheltorena;) the secretary of State (Jimeno) made a report to this effect: he stated that his excellency, the governor, had a visit in contemplation to the frontiers of the San Joaquin and Sacramento country, and as other cases or petitions for land had been postponed on that account, he submitted that this might be deferred in like manner with others—that is, until the governor should make his intended visit. The petition was returned to the governor, accompanied by the foregoing report of the secretary of State; thereupon the governor endorsed an order on the report and petition that it be permitted to remain as suggested by the secretary of State. All these papers were left in Mon-

terey, and shortly afterwards on a visit to that place I obtained them on the order of Mr. Knight; this visit of mine was some two or three weeks later. I went to Monterey several times during the summer and fall of 1844, and presented these papers of Mr. Knight, with similar papers, to the governor for his action. The title was not issued to Knight for the reason stated in the report of the secretary of State, viz: the contemplated visit of the governor to the frontier. The governor did, however, write on most of the petitions, and I believe on all, a permission to occupy the lands provisionally; nothing more was done with the papers; and on my return to Sacramento or Sutter's fort, I delivered Knight's papers to him; this was in November or December of 1844. I never saw these papers again until the spring or summer of 1847, when Mr. Knight brought them to me and asked me if anything more could be done with them, and if his title was a good one as the papers then stood; and I told him I didn't know. There was an impression then existing in the minds of some people that the Mexican laws remained in force, and that the American governors would have the same authority to grant titles to land that the Mexican governors had previously exercised, until the establishment of a regular American government in the country; it was entertaining such views that Mr. Knight asked me the foregoing questions, or rather understanding that such views were entertained by others. This was the substance of my conversation with Mr. Knight at that time; he exhibited to me the same papers which I had returned to him, and no other or different papers that I recollect, unless perhaps a copy of the general title, but I am not positive that such copy of the general title was exhibited to me at all at that time, but I am positive that there was no formal title shown me then. I think there could not have been among the papers Mr. Knight then showed me, any other papers than those I returned to him on my return from Monterey, except perhaps a copy of the general title I have just before mentioned.

Was any reference made by Mr. Knight at that time to any other evidence of title to the tract of land in question than there exhibited at the time to you?

There was no such reference made.

Do you recollect what amount of land was asked for in the petition which Mr. Knight then showed you?

Yes; he asked for eight leagues.

Do you know anything of the boundaries of the tract of land asked for by Mr. Knight in that petition? if yea, state those boundaries.

I do. The land is bounded on the east by the Sacramento river; on the south by the tract of land granted to Thomas M. Hardy, Cache creek and the grant to Wm. Gordon; on the west and north by vacant lands; the whole containing eight square leagues.

How do you know such were the boundaries?

Because I made the plot or diseño of the land, at Mr. Knight's request. In order to make this plot I went on to the land and examined it.

What instruments, if any, did you have with which to make the survey?

I had nothing but a pocket compass, with which I calculated the directions, and a horse, which I supposed trotted about five miles an hour, by which I computed the distances.

What do you know, if anything, with regard to the occupation and cultivation of that land by Mr. Knight?

I know that Mr. Knight settled on the land in 1844 or 1845, built a house on it, and cultivated it to a very limited extent; his family was with him.

Do you know how long he lived there, or when he quitted it?

I think he lived there the greater portion of the time until 1847, and possibly until 1848; he went down into the San Joaquin country, and I think died there in 1848; I know these facts from reports to that effect.

What do you know about a journey from Scaramento valley to Los Angeles, or, vice versa, from Los Angeles to Sacramento valley, in March, April, or May, or June, 1846, with regard to its feasibility, safety and requisitions?

A journey of that kind would, at that time, have required six weeks to go to and fro, and was considered unsafe unless in companies of eight or ten persons riding; and pack-horses and an ample supply of provisions were of course necessary, and extra riding-horses were generally taken along.

What was the condition of the water-courses and roads between those points at the period in question, viz: in the spring of 1846?

The water-courses were high, as they usually are in the spring of the year, and there was no road or usual route; sometimes travellers went by way of the San Joaquin; at other times they went across the San Joaquin valley to the coast; about the coast route at that time I know nothing, except that it was difficult to get to and from it. I was waiting myself to make the trip from Sacramento to Los Angeles during the spring of 1846, (March, April and part of May,) because of the height of the water-courses necessarily crossed in travelling that way.

Do you know anything of the whereabouts of Wm. Knight during the spring of 1846?

I think he was in the Sacramento valley, at his place, during that time; I think if he had been absent or far away I should have known it, because there were but few Americans in the country; we knew each other, and if one had been absent, I think I should have known it.

Do you know anything of the presence of José Moreno in Sac-

ramento valley during the spring of 1846? (Objected to by Volney E. Howard, esq., att'y for claimant.)

I do not.

Do you know José Moreno?

I do.

Do you think you would have known that José Moreno was in the Sacramento valley during the time in question, had he been there?

I do.

Why would you have known about it?

Because he would necessarily have to come to Sacramento or Sutter's fort, at which place I was during the whole of that time.

Did the usual course of travel from Knight's ranch to Los Angeles lead by Sutter's fort?

There was not much travelling on that route, but persons usually passed that way and stopped there. At that time, persons who travelled any distance were required to obtain passports, particularly when travelling from the jurisdiction of one alcalde to that of another alcalde, and persons leaving the Sacramento country uniformly obtained passports from Gen'l J. A. Sutter. A party who desired to travel was compelled to make application for a passport; if the application was granted, he could go; but if refused, he was compelled to stay at home or violate the custom of the country.

During the period heretofore mentioned, viz: the spring of 1846, did Wm. Knight apply to the alcalde of the Sacramento district for a passport to travel to the lower portion of California; and what are your means of knowledge whether he did or not?

He did not make such application as far as I know; and I was with alcalde Sutter, kept his books, and did the most of his writing.

Cross-examination by Volney E. Howard, Esq., att'y for claimant.

What is the distance from Los Angeles to Sutter's fort by land?

We used to call it, in those days, seven hundred miles.

Do you know anything of Knight having been employed by the Mexican government to ride express at any time?

I do not, except that in January, 1845, he was sent by Micheltorena (then governor) to Los Angeles, in advance of the troops, to carry some secret despatches.

What is the character of the "general title" you have heretofore testified about?

The title explains itself; it was given to all persons who had made applications for land, with favorable information from Capt. John A. Sutter, previous to the 22d day of December, 1844.

Do you know anything of Knight having served in the American army during the year 1846?

He commenced service in that army at the beginning of the war, and continued to serve until the close of the war.

Where did his family reside during that period of service?

I do not know; I was in the lower country during the whole of the war, but I suppose the family lived on his place; the war commenced in June, 1846, and terminated in the spring of 1847.

J. BIDWELL.

Sworn to and subscribed before me, this 3d day of December, A. D. 1855.

GEO. PEN JOHNSTON,
U. S. Commissioner for the Districts of Cal'a.

Endorsed: Filed Dec. 8th, 1855.

By CHEVERS, *Deputy*

Deposition of J. M. Harbin.

United States District Court, northern district of California.

SAN FRANCISCO, CAL'A, *January 15th,* 1856.

On this day, before Geo. Pen Johnston, as commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c. &c., came James M. Harbin, a witness produced on behalf of the claimant and appellant, in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket o. the said board of commissioners, and was duly sworn, and testified as follows:

JAMES G. MOREHEAD, Administrator of Wm. Knight, Appellant,
vs.
THE UNITED STATES, Appellees. } Appeal.

Present, Volney E. Howard, esq., on behalf of appellant and claimant; and U. S. dist. att'y, on behalf of the United States.

Questions by V. E. Howard, Esq.

What is your name, age, and place of residence?

My name is James M. Harbin; I reside in Napa valley; and I am thirty-four years of age; and I have been living in California since the fall of 1844.

Were you acquainted with Wm. Knight during his lifetime, and how long did you know him?

I became acquainted with Wm. Knight in the fall of 1844, just after I came to the country, and knew him tolerably well from that time until he died, which, I think, was in 1849.

Do you know anything of his having obtained a grant for a tract of land on the Sacramento river? If yea, state all you know on the subject.

In the spring of 1846 I was at Los Angeles, attending to some business about grants, &c., and I there saw Knight, who told me he was there for the purpose of getting title-papers for ten leagues of land on the Sacramento river; and Pio Pico also told me that Knight was there for the purpose of getting a grant, and Pico also said that Knight might have gotten his papers before, but for his own neglect, going on sprees, and otherwise neglecting his business; that Knight was on a spree about that time, and hadn't attended to the matter properly; but that he, Pico, had given him the grant, and Knight was then about to start home; and I was with Knight when he was getting on his horse to leave, and he told me that he had his papers, and that he was going to leave them with John Wilson, of Santa Barbara, for him to obtain the confirmation of the departmental assembly; I saw papers at that time in the possession of Knight, but I don't know what papers they were.

(U. S. att'y objects to all that portion of the foregoing answer which has reference to what Pico said to witness about the papers of Knight, or anything else concerning the matters in controversy.)

Can you describe the boundaries of the land claimed by Knight?

I have no accurate knowledge of the land, except that it is bounded on the east by the Sacramento river, and on the south by Thomas Hardy's grant; the other boundaries I don't know particularly.

Do you know anything about the occupation of this land?

I know that it was Knight's home; that his family and cattle were on it, and occupied it, when I came to the country in the fall of 1844; I was there with Knight in the spring of 1847, after he returned from the war in the lower country under Fremont; he had been absent from the ranch some time then, and his family were living with a neighbor at the time, but his stock were still there, and the land had been cultivated, for there was stubble and other evidences of cultivation visible. Knight and I served together as soldiers under Micheltorena and Col. Fremont.

Cross-examination by U. S. Att'y.

State, as nearly as you can, the exact time when you saw Wm. Knight at Los Angeles in the spring of 1846, when you had the conversation with him which you have detailed in your direct examination.

I cannot remember positively the day on which I had the conversation which I have before mentioned; but I was with Knight from the middle of April, I think, until the first or second week of May, and my last conversation with him must have been in the said first or second week of May.

How long were you and Knight together in Los Angeles in the spring of 1846?

I think I was with him there about three weeks; I think I went

there about the middle of April; I am not positive; but I think Knight was in Los Angeles or that neighborhood when I got there; I was there about a month, and Knight left before I did, and it is for this reason, I think, that I was with Knight there about three weeks.

At what time did you have the conversation with Pio Pico about which you have testified in your direct examination?

About the same time I had my last conversation with Knight—probably on the same day, or the day before.

Are you certain Knight was in Los Angeles, or in that vicinity, for the space of two weeks, at that time?

I am as certain that Knight was there for the space of two weeks, or longer, as I am that I saw Knight at all at that time.

Who is the Mr. John Wilson whom you say in your direct examination Mr. Knight said he intended to leave his papers with at Sata Barbara, for the purpose of obtaining the confirmation of the departmental assembly?

I understood Knight to refer to Capt. John Wilson, of Santa Barbara, whom I knew to be an acquaintance or friend of Knight's, and with whom I had heard Knight speak of stopping when travelling in that section of country. Subsequently, in the fall of 1848, or spring of 1849, Knight told me that he would have to go, or was going, to Santa Barbara to see about some papers concerning his ranch, which he said were in the hands of this same Mr. Wilson; I told a Mr. Keene, one of the former administrators of the estate of Knight, some two or three years ago, about Knight having said to me that Wilson, of Santa Barbara, had some papers in his hands referring to his (Knight's) grant of land or rancho.

Where have you resided, and what has been your occupation for the last four or five years?

In the fall of 1847 I moved from the lower country to Hardie's ranch, which adjoins Knight's, and lived there, raising and dealing in cattle ever since, until about a year ago. I still own the most of Hardie's ranch, and have stock on it.

Have you ever informed any of Knight's administrators that you were acquainted with the circumstances you have detailed in this deposition?

I have informed Mr. Sunderland, of Sacramento, who, I believe, has some connection with the ranch as a lawyer or otherwise, that I knew the principal circumstances which I have narrated.

J. M. HARBIN.

Sworn to and subscribed before me, this 15th day of January, A. D. 1856.

GEO. PEN JOHNSTON,
U. S. Commissioner.

Endorsed: Filed January 15th, 1856.

By CHEVERS, *Deputy.*

Deposition of Wm. Gordon.

United States District Court, northern district of California.

THE UNITED STATES
vs.
J. G. MOREHEAD, Adm'r of
Wm. Knight, dec'd.

SAN FRANCISCO, *February 15th*, 1856.

On this day, before Geo. Pen Johnston, a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c., &c., came William Gordon, a witness produced on behalf of the United States in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, the U. S. dist. att'y, on behalf of the United States, appellees, and Volney E. Howard, esq., on behalf of claimants and appellants.

Questions by U. S. Dist. Att'y.

What is your name, age, and place of residence?

My name is William Gordon; I am fifty-two years of age, and I reside in Yolo county, California. I was acquainted with Wm. Knight during his lifetime. I become acquainted with Wm. Knight in New Mexico between the years 1831 and 1833; he came to California with me in 1841, and I was acquainted with him up to the time of his death; I saw him frequently in the year 1846, in the county in which we lived; he was at my house about the fore part of June of that year; I lived about eleven miles from Mr. Knight's at that time; I did not see him very often in the year 1846, but I saw him several times that year; I do not remember having seen Knight any time in the fore part of the year 1846, except in the early part of June, as I have said—and the reason why I remember that occasion distinctly is, because that was the first war party which was fitted out about that time; I might have seen him frequently, but don't remember having seen him. In the early part of June, when I saw Knight, as I have said, he was of the war party to take Sonoma; that was his business at that time. The war party assembled at Capt. Sutter's fort; so they told me at that time. Knight came to my house about June, 1846, with the war party, on their way to Sonoma; they said they had come right from Sutter's fort. Knight reported himself as interpreter to the war party, to the Spaniards;

he didn't tell me what his position was. The war party I have spoken of took Sonoma, and in a short time afterwards Fremont passed along, stopped at Sonoma a little while, and returned to Sutter's fort by my house, and Knight was with him. I understood that Fremont had taken Knight along with him as an interpreter and as a guide, as he (K.) was well acquainted with the lower country.

Did you ever have any conversation with Knight in relation to a grant he already had, or one which he expected to get?

I had a conversation with him about a grant he had the promise of in 1842, as he said; and frequently afterwards I asked him about that grant, and he told me that he had his grant all right; this was about a year, or something upwards of a year, after I had had the first conversation alluded to. I saw Knight after the campaign of which I have spoken, in 1846, and he told me that he had his papers all regulated about right in his land affairs; he did not tell me anything about the particulars; he never told me that he went to Los Angeles to get them fixed. Knight told me that Fremont wished him to go along with him, because he regarded him as a good guide and interpreter.

Cross-examination by Volney E. Howard, Esq., att'y for Claimants and Appellants.

What land did Knight tell you he had gotten a grant for?

A certain portion of land lying on the west side of the Sacramento river, the west corner of which cornered on my northeast corner; and the Sacramento river was the eastern boundary of his land; he settled there in 1844, as well as I can remember; he cultivated a small piece of the land, builded a house, and had his family there in the same year, 1844; and his family has never been away from there more than a month at a time within my knowledge.

WILLIAM GORDON.

Sworn to and subscribed before me, this 15th day of February, A. D. 1856.

GEO. PEN JOHNSTON,
U. S. Commissioner.

Endorsed: Filed Feb'y 27, 1856.

By CHEVERS, *Deputy.*

Deposition of Nicholas Algier.

United States District Court, northern district of California.

SAN FRANCISCO, *February 18th*, 1856.

On this day, before Geo. Pen Johnston, a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c., &c., came Nicholas Algier, a witness pro-

duced on behalf of the United States in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

THE UNITED STATES
vs.
J. G. MOREHEAD, Adm'r of
Wm. Knight, dec'd.

Present, U. S. district att'y, on behalf of the United States, and Volney E. Howard, on behalf of claimant and appellant.

Questions by the U. S. Dist. Att'y.

What is your name, age, and place of residence?

My name is Nicholas Algier; I am forty-six years old, and live in Sutter county, California.

Were you acquainted with Wm. Knight? If so, state when you first knew him, and how long you knew him.

I was acquainted with him; I first knew him in 1843 or 1844, when I was working for Capt. Sutter, and knew him until 1848; I saw him frequently; he died, I believe, in the year 1848; I knew him in 1846, and lived about eight miles from him, and kept a ferry which he was in the habit of crossing the river by. In the year 1846, I saw him nearly every week—two or three times a week; I saw him in March, two or three times, at Capt. Sutter's fort, and I saw him about the 10th and 15th of May at his own house; I can't recollect very particularly about seeing him at any other certain times, but I know I saw him frequently; the reason I remember having seen him about the 10th and 15th of May is, that he got seed-corn, &c., from me about that time; at that time I was ploughing for the purpose of planting corn; we planted corn usually about the fourth or fifth of May.

How does it happen, as you plant corn on the fourth or fifth of May, that you were ploughing on the 10th and 15th of May?

I meant to say that I commenced on the 4th or 5th and ended about the 15th of May. (The witness says, "I am a German and do not understand English well.") I saw Knight the next time about the 15th of June of the same year, 1846.

Cross-examination by Volney E. Howard, esq., Att'y for Claimant.

When did you begin to plant corn, and when did you quit in 1847?

I began the 4th of May and ended on the 15th of May. In 1848 I began on the 4th and ended on the 15th of May. In 1849 I was sick and didn't plant any corn. In 1850 I planted a little corn in April. In 1851 I planted no corn. In 1852 I commenced planting about the last of April or the first of May. The reason why I think I saw Wm. Knight in the 4th and 15th of May, 1846, is,

because I was planting corn at the time, and it was the rule or usual for us to plant corn about that time—that is, it was the rule among the farmers. Corn has to be planted from the 4th to the 15th of May, or it won't get ripe.

Who procured you to come here to testify?

Mr. J. B. Hartsongh procured me to come. I believe he is a settler on the Knight ranch; he served a subpœna on me as deputy marshal. I never had a difficulty with Knight during his lifetime.

his
NICHOLAS ⋈ ALGIER.
mark.

Sworn to and subscribed before me, this 18th day of February, A. D. 1856.

GEO. PEN JOHNSTON,
U. S. Commissioner.

Endorsed: Filed Feb'ry 27th, 1856.

By CHEVERS, *Deputy.*

Deposition of A. H. Gillespie.

United States District Court, northern district of California.

THE UNITED STATES
ads.
JAS. G. MOREHEAD, Adm's.

SAN FRANCISCO, *March* 6, 1856.

On this day, before W. H. Chevers, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Archibald H. Gillespie, a witness produced on behalf of the United States, in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, the U. S. dist. att'y, by A. Glasell, esq., and E. L. Gould, esq., of counsel for the claimants.

Question 1st by U. S. dist. Att'y. What is your name, age, and place of residence?

Answer. Archibald H. Gillespie; am 43 years of age, and reside in Shasta county, Cal.

2 question. Were you acquainted with Wm. Knight, deceased, whose heirs claim to be entitled to a tract of land on the Sacramento river, known by the name of "Carmel?"

2 answer. Yes, I was; he served under me during the war in California. I first met him in the Sacramento valley early in the month of June, 1846.

3 question. How long after that time did you know Mr. Knight?

3 answer. Until my departure for the eastern States in July, 1847.

4 question. Whereabouts in the Sacramento valley did you see him at the time to which you refer?

4 answer. On the American river, about three miles above Sutter's fort.

5 question. Do you know with what object he was present there?

5 answer. Yes, he had joined the rising of the settlers in what was called the "Bear Flag" insurrection.

6 question. When did Mr. Knight join that insurrection?

6 answer. In the month of May, 1846.

7 question. Where?

7 answer. In the Sacramento valley, at a place called the "Buttes."

8 question. What time in the month of May was this?

8 answer. Between the 26th of May and the first of June.

9 question. Do you know what was the condition of the roads between the Sacramento valley and the city of Los Angeles in the spring of 1846?

9 answer. I do. From Sutter's fort in the valley down to what are called the crossings of the San Joaquin, the country was almost entirely overflowed during the latter part of April and the month of May—so much so that my courier, Sam. Neal, going from camp at Lawson's to Monterey was obliged to turn back to the crossing of the Sacramento at Sutter's fort and go down by the way of Sonoma.

10 question. How long would it have required to go from Sutter's fort at that time, and under those circumstances, to Los Angeles?

10 answer. In the ordinary course of business about six weeks, but an express in fifteen or twenty days.

11 question. How long would it take to go from Sutter's fort to the "Buttes?"

11 answer. About twenty-four hours; the distance is about fifty-five or sixty miles.

12 question. At what time did this rising of the settlers commence?

12 answer. About the latter part of May, 1846.

13 question. What were the immediate causes of that rising?

13 answer. General José Castro, Mexican military commandante of this section of the country, having issued a bando or decree ordering all the settlers from the United States who had not been a year in the country, and had not become citizens of Mexico, to leave California immediately upon pain of imprisonment and trans-

portation to Mexico, with other tyrannical conduct on the part of the Mexican authorities. And further, the settlers of the Sacramento valley, of whom Knight was one, had heard that Gen'l Castro and the Vallejos were holding a council at Sonoma for the purpose of organizing a force to proceed against the settlers of the Sacramento valley, who were all Americans, and had gotten together a band of horses to send to San José to mount their men.

14 question. How long was it previous to the actual rising that these causes were in operation to produce it?

14 answer. From the time of Fremont's attempt to pass through the country from the Sacramento valley to the Colorado in the month of March, 1846.

15 question. During that period, what was the condition of the communications between the Sacramento valley and the lower parts of the present State of California, with respect to the passage to and fro of individuals of the American settlers in the Sacramento valley?

15 answer. Very precarious and doubtful, for they were at all times liable to detention and annoyance from the Mexican authorities.

16 question. Was there any such passing to and fro at that time?

16 answer. Yes, there was; I passed through myself, but I was in constant fear of being picked up by the authorities and crossed the bay of San Francisco from Yerba Buena to the straits of Carquinez in an open boat, during a heavy gale of wind, at night, to avoid them.

17 question. What was your own occupation in the spring of 1846 in this country?

17 answer. I was an officer of the United States marine corps on special and confidential service, under orders from President Polk.

18 question. What were you doing at the time that you met Wm. Knight?

18 answer. I was procuring supplies for Fremont's camp, and assisting the settlers with council and advice.

19 question. Did you make any journeys in California during the spring of 1846?

19 answer. I made a journey from Monterey up to the north of the Klamath lake and back to Yerba Buena.

20 question. What was the usual route from Sutter's fort to Los Angeles in the years '46 and '47?

20 answer. Directly down the valley of the Sacramento to the crossings of the San Joaquin, via Livermore's and San José.

21 question. What was the distance by this route from Sutter's fort to the city of Los Angeles?

21 answer. I do not know the exact distance. At that time it was

computed by days' travel more than by miles. By ordinary travelling, it took fifteen days; by express from six to seven days.

22 question. How long was Wm. Knight under your command in 1846?

22 answer. He belonged to and was on service with the California battalion and the organized settlers eleven months, commencing from the last of May, 1846.

Cross-examined by E. L. Gould, Esq., of Counsel for the Claimant.

1 question. Were you personally present when Knight enrolled himself among the settlers?

1 answer. I was not, but I know the time he did it; I was at the place at the time.

2 question. Do you know it from some document or from having seen him do it?

2 answer. From documents and from report. I have his name among my notes, with a list of the names of men who took the first steps against the Mexican authorities; Knight was one of the parties who took active steps before the settlers were enrolled.

3 question. Is that fact known to you personally or from report?

3 answer. I know it from official report and from the information of various persons. I do not know it personally.

4 question. What is it that fixes in your mind the latter part of May, 1846, as the time of the rising of the settlers in California?

4 answer. My having brought Fremont and his party back to California from the mountains of Oregon, north of the Klamath lake.

5 question. Was the news of the projected rising pretty generally spread before it actually took place?

5 answer. It was in the Sacramento valley.

6 question. Did you in the month of May, 1846, make or attempt to make a journey from the Sacramento valley to the city of Los Angeles?

6 answer. No, I did not. The condition of the roads I learned from my courier, Sam Neal, and others.

7 question. Do you know anything of Wm. Knight's qualities as a soldier, a horseman, or a hunter?

7 answer. They were very good; he was a famous horseman.

8 question. Can you state the first date at which you saw Knight?

8 answer. Between the 7th and 10th of June, 1846.

ARCHI. H. GILLESPIE.

Sworn to before , March 6th, 1856.

W. H. CHEVERS,
U. S. Comm'r.

Endorsed: Filed March 6, 1856.

By CHEVERS, *Deputy.*

Deposition of Samuel U. Chase.

United States District Court, northern district of California.

Case No. 89, in Land Com'n—No. 106, U. S. Dist. Court.

THE UNITED STATES, Appellees,
vs.
J. G. MOREHEAD, Adm'r of Wm. Knight, dec'd,

SAN FRANCISCO, CAL'A, *March 10th*, A. D. 1856.

On this day, before me, Geo. Pen Johnston, a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c. &c., came Samuel U. Chase and John Gordon, witnesses produced on behalf of the United States in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and were duly sworn, and testified as follows:

Present, the acting U. S. dist. att'y, A. Glassell, esq., on behalf of the United States, appellees, and Volney E. Howard, esq., on behalf of J. G. Morehead, &c., appellant.

Questions by Acting U. S. Dist. Attorney.

What is your name, age, and place of residence?

My name is Samuel W. Chase; my age is thirty-eight years, and I live in Napa county, California.

Were you acquainted with Wm. Knight, deceased, whose heirs now claim a tract of land in Sacramento valley, now known as Carmel ranch, or Knight's ranch?

I was.

When and where were you acquainted with him?

I first met him in Mr. Gordon's ranch, about the 10th day of July, 1845, and I knew him from that time until the spring of 1846, and saw him frequently during that time. The last time I saw him in 1846, was about the 18th or 20th of April of that year; I saw him then at Knight's ranch, or the place called Carmel.

Was anybody else with you there at that time; if so, whom?

John Gordon was there with me at that time.

SAMUEL W. CHASE.

Sworn to and subscribed before me, this 10th day of March, A. D. 1856.

GEO. PEN JOHNSTON,
U. S. Commissioner.

Deposition of John Gordon.

John Gordon, being duly sworn, deposes and says as follows:

Questions by Acting U. S. Dist. Attorney.

What is your name, age, and place of residence?

My name is John Gordon; my age is twenty-five years, and I live in Napa county, California, at the head of Suisun creek.

Were you acquainted with the late Wm. Knight, whose heirs are now claiming a tract of land in Sacramento valley, now known as "Carmel," or Knight's ranch?

I was; I first knew him in New Mexico; I next saw him at my father's house, on Cache creek, near the "Carmel," about twelve or thirteen years ago, but I don't know exactly when it was.

Did you know Mr. Knight in the year 1846?

(Objected to and question changed by U. S. dist. att'y.)

State, if you please, how long you knew Wm. Knight after the time you have mentioned as having seen him at your father's house.

I don't know what year he came there.

What do you mean by the word "there?"

I didn't understand at first what you meant; I knew him from that time until 1846.

How far did you live from Wm. Knight during that time?

It was called about twelve miles.

When was the last time you saw Wm. Knight?

The last time I saw him was in 1847.

When was the next to the last time you saw Wm. Knight?

I don't recollect having seen him after 1847.

When was the next time you saw him before the last time you saw him?

I saw him in 1846, on Cache creek and at Sonoma.

What were you doing at Sonoma?

I was with him—soldiers under Fremont.

When was the time, next before the time you saw him at Sonoma?

(Objected to by att'y for J. G. Morehead and adm'r of Wm. Knight, dec'd.)

I saw him at his house, next before the time I saw him at Sonoma.

Where was his house?

At a rancheria, next to the Sacramento river, on a grant there.

Was anybody with you when you saw him there?

There was not.

How long was this before you saw him at Sonoma?

It was about three or four months before I saw him at Sonoma.

Did you see him any other time about that period?

I did; I saw him often at Sonoma, at Sacramento, and from Sutter's fort to Sonoma, until he went below.

Did you see him any times before the times you saw him from Sutter's fort to Sonoma?

I did; I saw him around the country there, in Yolo county.

How often?

I used to see him pretty often; sometimes three or four days; sometimes a week.

When was this you used to see him as you have just stated?

Before I saw him at Sonoma; before we went there with Fremont's party.

For how long a period was this?

I don't know.

Where did you use to see him?

On Cache creek and at Sacramento.

Did you ever see him in any house at that time?

I saw him at what he called his house, at my father's house, and at Mr. Shadden's house.

Did you ever go to Mr. Knight's house in company with any one else?

I went there once with Mr. Chase, and at other times with different persons; I went with Mr. Shadden's sons.

When did you go to Mr. Knight's house in company with Mr. Chase?

I don't know the day of the month, or the month; it was in the year 1846.

Was it in the beginning, the middle, or the end of the year 1846?

I think it was in the spring of 1846.

Was it before or after you went to Sonoma with Fremont's party?

It was before.

How long?

Four or five months before.

Did you see Mr. Knight between the time you went to Mr. Knight's house with Mr. Chase and the time you went from Sutter's fort to Sonoma with Fremont's party?

(Objected to by V. E. Howard, esq., att'y for appellants.)

I did; I saw him at his house, and I saw him out in the woods hunting; sometimes it would be three or four days, or a week, or a month.

Where was Wm. Knight all that time?

He was around there hunting, and farming a little.

Where were you all that time?

I was on Cache creek—at my father's most of the time.

JOHN his ⋈ mark. GORDON.

Sworn to and subscribed before me, this 10th day of March, A. D. 1856.

GEO. PEN JOHNSTON,
U. S. Commissioner.

Endorsed: Filed March 10, 1856.

By CHEVERS, *Deputy.*

Deposition of John Grigsby.

United States District Court, northern district of California.

SAN FRANCISCO, *March* 25, 1856.

On this day, before Jno. A. Monroe, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Capt. John Grigsby, a witness produced on behalf of the United States in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claiams in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, U. S. dist. att'y, and E. L. Goold, esq., of counsel for claimant.

1st question by U. S. dist. att'y. What is your name, age, and place of residence?

Answer. John Grigsby; age 50 years; and reside in Napa county, Cal'a.

2d question. Were you acquainted with the late William Knight, whose heirs are now claiming the tract of land *of land* known as "Carmel," on Knight's ranch, on the Sacramento river; and if so, when and where?

Answer. As for the name of the ranch I know nothing about it. I got acquainted with Knight in the fall of 1845. He lived on Sacramento river, either ten or twelve miles above the mouth of Feather river.

3d question. Did you see him in the spring of '46; and if so, at what time in that period, and where?

Answer. I saw him at the house he was living in on Sacramento river, at or near the first day of May, '46; I can't be positive to the day; it could not have been five days before or after, I think.

4th question. How can you fix the time so nearly?

Answer. I had a mule stolen from me by a gentleman named Dr. Carter in the spring of '46; he was going to cross the plains to the States; I followed him to the mouth of Feather river; when I got there he was encamped at Nicholas, then called Nicholas' ranch; when I got to the mouth of Feather river the river was very full; the wind was blowing and I could not cross; I understood they were to leave on the 15th of May from Mr. Hardy, who lived by the

mouth of Feather river; I employed Mr. Hardy to cross and get the mule for me as soon as the river permitted; I then returned to Knight's, and staid at his house another night; William Knight was there, and we staid at his house. Hardy got the mule and brought it to me in about ten days. Another cause of my recollecting the date is, that Mr. Gordon, at whose house I stopped, told me the Sacramento river would commence falling in about ten days from that time; that it was a common thing for it to commence falling about the tenth of May, and continue to fall; that the snow on the low hills was melted about that time.

Cross-exa'd.

1st question. Do you recollect any circumstance that enables you to state positively that it was after the 15th or 20th of April that you saw Knight at his house?

Answer. One thing that makes me positive, was that the time set for the train starting was on the first day of May. When I heard the time was set, I hurried to get there before they starded, or by the time they would start. I rode my horse down by the time I got to William Knight's, and he loaned me a horse next morning to go on. When I got to the mouth of Feather river Mr. Hardy told me it would be impossible to cross, and that the party had postponed starting until the 15th of May, on account of the late spring rains, high waters, &c. I was a day and part of a day going to the mouth of Feather river; I started at Pope's ranch, which is about sixty miles from the mouth of Feather river.

JOHN GRIGSBY.

Sworn to and subscribed before me, this 25th day of March, 1856.

JOHN A. MONROE,
U. S. Commissioner.

Endorsed: Filed March 25th, 1856.

CHEVERS, *Deputy.*

Deposition of Wm. Bartee.

UNTED STATES DISTRICT COURT,
Northern District of California.

THE UNITED STATES ads. J. G. MOREHEAD, Adm'r of Wm. Knight, dec'd.

SAN FRANCISCO, CAL'A,
April 1st, A. D. 1856.

On this day, before me, Geo. Pen Johnston, a commissioner of the United States for the districts of California, duly au-

thorized to administer oaths, &c., &c,, came William Bartee, a witness produced on behalf of the United States in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, the acting U. S. att'y, on behalf of the U. States; and E. L. Goold, esq., on behalf of claimant and appellant.

Questions by the acting U. S. Dist. Att'y.

What is your name, age, and place of residence?

William Bartee; 46 years of age; and reside at the Indian reservation, in or near Shasta county.

When did you first come to California, and where have you resided since then?

I came to California on the 1st day of July, 1845; I have since resided in Cache creek until the fall. and then in San Francisco till the last of February, 1846. I then returned to Cache creek, and resided *then* until July, 1846. Then I went to the lower country with Col. Fremont. I was discharged as a volunteer near Los Angeles, in May, 1847. I then returned to the upper country to Cache creek; since then I have lived in the mines and different places.

Are you acquainted with a tract of land on the Sacramento river, known as Carmel, or Knight's rancho?

Yes.

Were you acquainted with William Knight, who lived for some time at that place; if so, when did you become acquainted with William Knight, and how long did you know him?

I was acquainted with that William Knight; I became acquainted with him in the early part of July, 1845; I knew him from that time till 1848; I saw him frequently during this time; a month or six weeks was the longest interval between the times of my seeing Mr. Knight.

Where were you in the months of April, May and June, 1846?

I was living part of the time with Mr. Knight, at Knight's rancho, and part of the time with Mr. William Gordon, who lived in the neighborhood; they, and an Irishman by the name of Clark, were the only persons living in that neighborhood at the time.

During that time, what were your means of knowing, if any, of the whereabouts of Mr. Knight?

I was hunting there for a living; Mr. Knight frequently hunted with me; I stopped part of the time at his house; we used to camp not far from there regularly; Mrs. Knight did my washing; I do not think that more than eight or ten days during all the months of April, May and June, could have passed at a time without my seeing Mr. Knight.

During the period of April, May and June, 1846, where was Mr. Knight?

He was at home, and was out hunting with me, and part of the time by himself.

Do you know of Mr. Knight's having made any journeys out of that neighborhood, or not, during that time?

I do not know of his making any journeys during that period.

Did you ever have any conversations with Mr. Knight, on the subject of his title to Knight's rancho? If so, say when and where, and what such conversation was.

In 1848, in the latter part of August, I was with Mr. Knight in the mines on Feather river, and he told me that he wanted to go to Mexico; that he had money enough to support his family while he was gone, and he wanted me to stay with his family; and that he had money enough also to get his papers out for his claim on the Sacramento river.

Cross-examination by Att'y for Claimant.

Did you keep any memorandum of dates at that time?

No; the men who were with me did, and I recollect the dates very well.

Did you have any agreement to hunt at stated times with Mr. Knight?

No; we always went out when we felt like hunting.

Who first spoke to you about giving testimony here, and when?

Mr. Wright.

Is he living on this land?

Yes.

Are you aware of the nature of the defence that the government makes to this claim?

Yes.

Who made you aware of it?

Mr. Wright.

Have you had more than one conversation with Mr. Wright, on the subject of this defence, or only one?

Only one.

Did Mr. Wright first speak to you, or you to him, on this subject?

I do not recollect.

WILLIAM BARTEE.

Sworn to and subscribed before me this 1st day of April, A. D. 1856.

GEO. PEN JOHNSTON,
U. S. Commissioner.

Endorsed: Filed April 4, 1856.

CHEVERS, *Deputy.*

Deposition of Jose L. Sepulveda.

United States District Court, northern district of California.

SAN FRANCISCO, *May 12th*, 1856.

On this day, before me, Geo. Pen Johnston, a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c. &c., came José L. Sepulveda, a witness produced on behalf of the United States in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn and testified as follows, his evidence being interpreted by Clinton Palmer, a sworn interpreter.

Present, B. W. Leigh, as att'y against the claimant, and Volney E. Howard, esq., attorney for claimant, who consents that this deposition shall be as valid as if taken by the U. S. dist. att'y.

1 question, by B. W. Leigh, esq., att'y against the claimant. What is your name, age, and place of residence?

1st answer. My name is José L. Sepulveda; I am thirty-eight years of age; and I live at San Pedro, California.

2d question. Do you know Jose Matias Moreno; if yea, when and where did you make his acquaintance?

2d answer. I do know José Matias Moreno; that is, I know a person whose name is either José Matias Moreno, or Juan Matias Moreno; I first became acquainted with him in Los Angeles, in 1846.

3d question. What was the occupation of that Señor Moreno, at that time and place?

3d answer. At the time and place mentioned, the Señor Moreno, of whom I speak, was acting as secretary ad interim to Pio Pico, governor of California.

4th question. Do you know where that Señor Moreno was during the months of April, May, June and July, of the year 1846? If yea, state what you know of his whereabouts during those months.

4th answer. In April and May of that year, Monero was in Los Angeles, with the governor; but in June he came up north with the governor, about the 15th of that month, and I came with them; I left Moreno and the governor at Santa Barbara, about the latter part of June.

JOSÉ L. DE SEPULVEDA.

Sworn to and subscribed before me this 12th day of May, A. D. 1856.

GEO. PEN JOHNSTON,
U. S. Commissioner.

Endorsed: Filed May 13, 1856.

CHEVERS, *Deputy.*

Answer.

In the District Court of the United States for the northern district of California.

THE UNITED STATES ads. JAMES G. MOREHEAD. } D. C. 106.—L. C. 89.

The United States, by their attorney, deny the validity of the title set out in the petition of the appellant, and pray that the decision of the board of U. S. land commissioners be affirmed, and that the said title be decreed invalid.

San Francisco, Feb'y 12, 1857.

WM. BLANDING, *U. S. Att'y.*

Endorsed: Filed February 12, 1857.

W. H. CHEVERS, *Deputy.*

Deposition of J. C. Davis.

United States District Court, northern district of California.

THE UNITED STATES vs. JAS. G. MOREHEAD, Administrator, &c., }

SAN FRANCISCO, *June* 16, 1857.

On this day, before J. Edgar Grymes, a special commissioner and referee of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Jerome C. Davis, a witness produced on behalf of the claimants, in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, U. S. dis't att'y, and Volney E. Howard, esq., for claimants.

Questions by Volney E. Howard, Esq.

1st question. What is your name, age, and place of residence?

Answer. My name is Jerome C. Davis; 33 years old; and I reside in Yolo county.

2d question. Please state whether you are acquainted with Capt. John Wilson, of San Luis Obispo?

Answer. I am acquainted with Capt. Wilson, of San Luis Obispo; I presume his first name is John, but I do not know.

3d question. State whether at any time, lately, you have in-

quired of him whether he had a certain grant in his possession, at what time, what place, what grant it was, and at whose instance you made the inquiry?

(Objected to as hearsay evidence; not the best evidence.)

Answer. I think, either in April or May, I went down in the steamer to San Luis Obispo, and found Capt. Wilson at his place, about nine miles from San Luis Obispo, with the express purpose of inquiring whether he knew of a certain grant made to William Knight; I went there by the request of Thomas Sutherland, one of the attorneys in this claim, for the claimants, and also a party interested. I asked him if he knew anything of a grant of land made to William Knight on the Sacramento river; he replied he did not know anything of the papers, but, at a certain time, met Knight near Santa Barbara; Knight told he was on his way up from Los Angeles, and had his papers, but he (Wilson) did not recollect of seeing them; he did not know the date, but he might refresh his memory by going to Santa Barbara and looking over some papers; it was at the time of an anticipated difficulty between Micheltorena and Pio Pico; when he met Knight he was in a coach with De la Guerra, father of the present State Senator from Santa Barbara.

(Answer objected to as being hearsay evidence.)

Cross-examination.

Question. Have you any interest in the event of this suit?

Answer. None whatever, and never had.

J. C. DAVIS.

Sworn to and subscribed before me, June 16th, 1857.

J. EDGAR GRYMES,
Special Commissioner.

Endorsed: Filed July 16, 1857.

W. H. CHEVERS, *Deputy.*

Deposition of Jno. A. Sutter.

United States District Court, northern district of California.

THE UNITED STATES
ads.
JAS. G. MOREHEAD.

SAN FRANCISCO, *March* 27, 1857.

On this day, before W. H. Chevers, deputy clerk of the dist. court of the United States for the northern dist. of California, duly authorized to administer oaths, &c., &c., came John A. Sutter, a witness produced on behalf of the claimant in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case

No. 89 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, Volney E. Howard, esq., counsel for claimant, and the U. S. dist. attorney.

Questions by Cl't's Att'y.

1st question. Were you acquainted with the late William Knight during his lifetime?

Answer. Yes.

2d question. Are you acquainted with the handwriting of Gov. Micheltorena, and his secretary, Manuel Jimeno?

Answer. Yes; I have seen them write.

3d question. Look at the signatures purporting to be theirs, and your own, which appear on the document marked "A," and made a part of this deposition, and state whether or not they are genuine.

(This question, and the admission in evidence of the document therein referred to, are objected to by the United States district attorney, and specification of the objection waived by the attorney for the cl't.)

Answer. They are genuine.

4th question. Are those of William Knight, J. P. Lease, and Thomas M. Hardy, also genuine?

Answer. Mr. Knight's I don't remember; I believe he could not write; Mr. Leese's are genuine; I believe that Mr. Hardy's are genuine, but I could not swear to it; I have letters from Mr. Hardy, and would be able to tell, upon a comparison, but at present I am not.

5th question. In whose handwriting is the copy of the paper known as the "general title," amongst the papers in the document marked "A?"

Answer. In my own handwriting.

6th question. When was it made?

Answer. On the 15th of April, 1845.

7th question. State what you know in relation to that general title?

Answer. In 1844 and 1845 there was a rebellion in the department of the Californias, by some of the native Californians, headed by José Castro, Juan B. Alvarado, and Andres Pico, and Pico, against the authority of Gov. Micheltorena. I was then "Capitan Mayor," or major of the militia of the northern frontier, and also held the civil office of "encargado de justicia," or judge of the northern frontier; I was a supporter of General Micheltorena and the authority of the national Mexican government; I received and obeyed the orders of General Micheltorena; he sent me orders to collect the militia of the northern frontier, and march by way of San José to Monterey to join him. I sent word to General Micheltorena that there were a number of the persons com-

posing the force under my command, who had claims to lands in the northern frontier, and that it was advisable, in order to encourage them, that he should give them grants of the lands claimed by them. In response to this message, Gen'l Micheltorena sent the document of which the one among the papers in the document marked "A." certified to by me, is a copy.

8th question. State the connexion of William Knight with that document.

Answer. William Knight was entitled to a copy of the document for having rendered military services. I delivered a copy of the said document to the said William Knight, which copy is the identical paper purporting to be such copy in the document marked "A." I delivered this paper at the place called "Sutter's Fort," near Sacramento, at the time specified in the certificate appended by me to the said document, namely, the 15th of April, 1845.

9th question. Where did William Knight reside at that time?

Answer. On the west bank of the Sacramento river, a few miles above the junction with Feather river, at the place now called "Knight's Landing," on the same land which is described by the said Knight, in the petition by him amongst the papers in the document marked "A."

10th question. How long did William Knight reside on that land?

Answer. From 1842 or 1843 until his death a few years ago. I cannot remember exactly when he died.

Cross-examined by U. S. District Attorney.

11th question. You have said you believe that William Knight could not write. What makes you believe so?

Answer. Because I remember that when he had to sign his name, he made a cross for his mark. I have seen him do this several times.

12th question. Did you ever hear William Knight speak of his title to the land on which he resided?

Answer. Yes; very often.

13th question. Do you know anything of his, the said Knight's, having obtained a grant for the said lands from Gov. Pio Pico in 1846?

Answer. I know that in 1845, or 1846, Knight went down to get a grant from Pico of those lands; but whether he got it or not I am unable to say. It was to Los Angeles he went. It was probably in the fall of 1845. I am doubtful whether it was in the spring of 1846, because at that time the water-courses, which he would have had to cross in passing down the San Joaquin valley, were very much swollen, as I suppose, as that is generally the case in the spring. The San Joaquin route would have been his best route.

14th question. Did you ever hear Knight speak of his title to the land in question, after 1846?

Answer. No.

15th question. When the "general title" you have spoken of was issued, was it considered a good title?

Answer. Yes. It was expected that when the government should be at leisure, each person holding lands under the "general title" would receive a perfect title to them. But the issuance of such perfect titles was prevented by the domestic troubles, and the wars which ensued and continued until the country passed under the dominion of the United States.

16th question. Did you ever hear of Knight's applying for a grant of those lands previous to 1845?

Answer. Yes. In 1843 he applied for a grant. I have seen the petition. The matter was delayed by Jimeno, the secretary of State, who was a great enemy to foreign citizens—he saying that a general survey would be made of the country, and then the government would grant lands in it. This was the reason why I sent word to General Micheltorena to issue the titles at once, without further delay, as the settlers were dissatisfied; and then I received the "general title" I have spoken of.

17th question. Do you know anything of the quantity of land sought for by Knight?

Answer. Yes. He wanted 10 leagues. I remonstrated with him for asking for so much land, considering how small a number of cattle he had, which he had borrowed from me. I told him he ought to be content with 5 leagues. He said, "No," that he would not take a grant for less than 10 leagues. He became so much excited about this that he, on one occasion, drew a pistol upon me, and placed it at my breast. It was knocked aside by John Sinclair, a neighbor of mine. I cannot remember exactly when this was; but I think it was in the winter of 1846, just before the Bear flag was raised.

18th question. Do you know anything about the boundaries of the ranch?

Answer. I do not know the boundaries accurately. I rode over the land once with some of my servants. I think the boundaries were the river on the east, Gordon's land to the northwest, Hardy's land to the southwest, and on the west by vacant land. I don't know where the western line run.

19th question. Was not William Knight at Sutter's fort with Col. Fremont, at or about the time of the raising of the Bear flag?

Answer. Yes. It was, I think, in the end of May or beginning of June, 1846.

20th question. Could Knight have been in Los Angeles in May, 1846?

Answer. No. He could not have been there at that time, be-

cause he was then with Col. Fremont. After the time when Knight drew a pistol upon me, he and I had no further intercourse.

Re-examined.

21st question. Was Knight one of the settlers entitled to land under the decree of Micheltorena?

Answer. He was. It was for that reason I gave him a copy of that decree.

J. A. SUTTER.

Exhibit A.

Sello Tercero—Dos Reales.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para los anos de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

XIMENO. ANTONIO MARIA OSIO.

Revalidado para los años de 1842 y 1843.

ALVARADO. ANTONIO M'A OSIO.

Al Señor Gobernador y Comand'te Gral., Don Manuel Micheltorena:

[SEAL.]

Guillermo Knight natural de los Estados Unidos del norte casado en la republica Mexicana con una hija del pais, y teniendo una familia creciente de seis hijos y hijas. Necesito por su mantencion algun terreno en donde pueda proporcionar d'ho deseo.

Por tanto suplico á la bondad de V. S. se sirve concederme el terreno que se señala el adjunto diseño siendo mas ó menos diez sitios de ganado mayor d'ho terreno siendo en los limites de los Tulares del Rio Sacramento, siendo el lado oeste del d'ho rio en donde desemboca ana arroyo ceco junto con un estero, laguna ó Brazo del Rio Sacramento y siguiendo el arroyo seco por el oeste hasta q'e se colinda con el parage de Julian Gordon y siguiendo por el lindero del d'ho S'or Gordon al oeste hasta pasar su parage de el y de entonces siguiendo el rio al oeste hasta entrar una milla adentro la lomeria por el d'ho sur del Rio de Jesus Maria segun se esplica en la adjunto diseño. D'ho terreno siendo en el oeste por los dos lados del Rio de Jesus Maria y por el este los dos lados del arroyo ceco y por todas sus partes una legua de ancho.

Jurando de no proceder de malicia y lo necesario.

Angeles, á los 4 dias de Mayo de 1843.

GUILLERMO FRA'O KNIGHT.

ANG'S, MAYO 8 *de* 1843.

Inf'l al S. Prefecto del 1'er distrito, previo toman los q. jusgue convenientes.

MICHELT'A.

[*Here follows map. See original, page* 112.]

MONTEREY, *Junio* 14 *de* 1843.

Ynforme el encargado del establecimiento de Nueva Helvecia en el rio de Sacramento, si el terreno que solicita en esta instancia se halla ocupado, y si pertenece á alguna corporacion ó particular con todo lo demas que crea conveniente sobre el particular.

ESTRADA.

Ynforme el Juez de Paz en Sonoma, porque el terreno que pide S'r D'n Guil'mo Knight pertenece en la jurisdicion de Sonoma.

Nueva Helvetia, Enero 10 de 1844.

J. A. SUTTER.

El terreno que solicita el enteresado esta ocupado y conradido por el E. S. Gobernado en favor de D. Tomas Hardy, una parte dl. ellis.

Sonoma, Enero 26 de 1844.

JACOB P. LEESE.

MONTEREY, *Mro.* 27 *de* 1844.

Ynf'l el S. S'rio del despacho.

MICHELTORENA.

EXMO S'OR GOBERNADOR: Como tengo informado a V. E. en otras solicitudes de igual naturaliza que esta de parecer conveniente se suspendan hasta que se queda hacer la visita que V. E. ha determinado hacer por los rumbos del Rio de San Joaq'n y Sacramento, y como V. E. ha decretado de conformidad que creo que esta quedara en el mismo estado que aquellas; pero la superior disposicion de V. E. sera la mas asertada.

Monterey, Marzo 27 de 1844.

MAN'L JIMENO.

Manuel Micheltorena, G'ral de Brigada del Ejercito Mejicano, Ayudante G'ral de la Plana Mayor del mismo, Gobernador Comand'te G'ral é Ynspector del Departamento de Californias.

No pudiendo ahora por estar sumamente ocupado este gob'no supremo departamental estender uno por uno los titulos respectivos a todos los ciudadanos que han solicitado terreno con informe a su favor del S'r Don Augusto Sutter, capitan y juez encargado de la jurisdiccion de Nueva Helvecia y Sacramento, a nombre de la nacion Mexicana les confiero por estas letras la propiedad p'a ellos y sus familias de los respectivos terrenos marcados en sus instancias y diseños, a todos y a cada uno de los que hallan solicitado y obtenido informe favorable del Espresado S'or Sutter h'ta hoy dia de la f'ha, sin que nadie pueda disputarles su propiedad, sirviendoles una copia de este que les dara mas adelante el S'or Sutter de titulo formal, con el que se presentaran a este gobierno p'a estenderles el mismo titulo en la devida forma y papel sellado correspondiente; y para la devida constancia en todos tiempos doy este documento que sera reconocido

y acatado por todas las autoridades civiles y militares de la nacion Mexicana en este y en los demas departamentos autorisado devidamente con los sellos militar y de gobierno, en Monterey a veinte y dos de Diciembre de mil ochocientos cuarenta y cuatro.

MAN'L MICHELTORENA.

Certifico que es copia.
Nueva Helvetia, Avril 15 de 1845.

J. A. SUTTER,
Capitan Mayor Comand'te
Militar de las fronteras.

I, the undersigned, Jacob P. Leese, do certify that the decree signed by me when acting as alcalde in Sonoma, in the year 1844, on the documents presented to me by Wm. Knight, as soliciting a certain farm on the Sacramento, *A* having decreed that the part of said farm was granted to Thos. Hardy in consequence of the said Thomas Hardy, *a* informing me that the said land solicited by Wm. Knight was a part of his, and *cince* have been discovered as an error, and is belonging to the said Wm. Knight, and has been occupied by the said Wm. Knight up to this date.

Sonoma, October 8th, 1847.

JACOB P. LEESE.

I, the undersigned, Thos. Hardy, do certify the above statement to be correct, and the land solicited regulated to the plan *dos* not interf*eer* with my land.

THOMAS M. HARDY.

Translation.

Third Seal—Two Real.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years eighteen hundred and forty and forty-one.

ANTONIO MARIA OSIO.

XIMENO.

Revalidated for the years 1842 and 1843.

ANTONIO MA. OSIO.

ALVARADO.

To the Governor and Commandant General, Don Manuel Micheltorena:

William Knight, a native of the United States of North America, married in the Mexican republic a daughter of the country, and having an increasing family of sons and daughters, needs for their maintenance some land where he can attain this end.

Therefore, I supplicate the bounty of your excellency, that it will please you to concede to me the land which is pointed out by the accompanying map, amounting to ten leagues, more or less,

("de ganado mayor,") said land being within the boundaries of the tules of the Sacramento, and on the west side of said river, where an "arroyo cua" empties into it, joined with an estuary, lake, or arm of the Sacramento river, and following the creek on the west side until it bounds with the place (parage) of Julian Gordon, and following the boundary of said Gordon to the west, until it passes his place, and then following the river on the west side, extending about a mile within the hills (lomerias,) upon the south side of the river Jesus Maria, as is shown by the accompanying map. Said land is bounded on the west by the two sides of the river Jesus Maria, and on the east the two sides of the "arroyo cua," and in all parts a league in breadth.

Monterey, May 8th, of 1843.

Let the prefect of said district inform himself and report to me.

MICHELTORENA.

MONTEREY, *June 11th*, 1843.

Let the one intrusted with the establishment of New Helvetia and Sacramento river inform me whether the land solicited in this petition is found unoccupied, or if it belongs to any corporation or individual, and everything else that he may deem relative to the case.

ESTRADA.

Let the justice of peace of Sonoma inform me for the land which Wm. Knight petitions for, *is* in the jurisdiction of Sonoma.

New Helvetia, January 10th, 1844.

J. A. SUTTER.

The land solicited is occupied, and by the Governor to Don Tomas Hardy. A *par* of it.

Sonoma, January 26, 1844.

JACOB P. LEESE.

MONTEREY, *March 27th*, 1844.

Let the secretary of despatches report.

MANL. MICHELTORENA.

Most Excellent Señor Governor:

As I have informed your excellency in petitions of the same nature, that it appears convenient that they be suspended until your excellency can make the visit that you have determined to make to the banks of the San Joaquin and Sacramento rivers, and as your excellency has decreed in conformity, I believe that this one should remain in the same state as the others, but your superior judgment will decide.

Monterey, March 27th, 1844.

MANL. JIMENO.

I, Manuel Micheltorena, Brigadier General of the Mexican Army, Ajutant Field General of the same, Governor, Commandant General, and Inspector of the Department of the Californias.

Not being able, at present, on account of being greatly occupied with the supreme departmental government, to extend one by one to each one their respective titles, to all those citizens who have solicited lands, with reports in their favor from Don Augusto Sutter, captain, and judge charged with the jurisdiction of New Helvetia and Sacramento, in the name of the Mexican nation I confer upon them, by these presents, the right for them and their families to the respective lands pointed out in their petitions and maps, to all those, and to each one, who shall have solicited and received favorable report from said Sutter up to this date, without any one being able to dispute their right, using a copy of this, which Don Sutter shall hereafter give them as a formal title; with it they shall present themselves to this government to have the same title extended to them in the desired form, and on the corresponding sealed paper. And for the proper constancy in all times I give this document, which shall be recognised and acknowledged by all the civil and military authorities of the Mexican nation in this department, and in all other departments. Authorized properly with all the military and governmental seals.

In Monterey, twenty-second of December, 1844.

MAN'L MICHELTORENA.

I certify that this is a copy.
New Helvetia, April 15th, 1845.

J. A. SUTTER,
Captain Mayor and Military Commandant of the Northern Frontiers.

Deposition of Harrison Gwinn.

United States District Court, northern district of California.

THE UNITED STATES ads. JAMES G. MOREHEAD, Adm'r of W. Knight, dec'd.

SAN FRANCISCO, *August* 4, 1857.

On this day, before J. Edgar Grymes, a special commissioner and referee of the United States for the northern district of California, duly authorized to administer oaths, &c. &c., came Harrison Gwinn, a witness produced on behalf of the United States in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No.

89 on the docket of the said board of commissioners, and was duly sworn and testified as follows:

Present, the U. S. district attorney, and Volney E. Howard, esq., for claimant.

Questions by U. S. District Attorney.

Question 1. What are your name, age, and residence?

Answer 1. My name is Harrison Gwinn; my age 49 years; and I reside near Knight's landing, in Yolo county, California.

Question 2. Are you acquainted with James G. Morehead, adm'r of the estate of William Knight, deceased?

Answer 2. Yes, I have known Mr. Morehead ever since about 1851.

Question 3. Do you know William McDaniel, now or lately residing in Solano county?

Answer 3. I know the man.

Question 4. Do you know whether the said McDaniel ever had an interest in the claim which is the subject of this suit?

Answer 4. I have heard him several times say he had an interest in this claim.

(The next preceding question and answer were objected to by the counsel for claimant.)

Question 5. How and to what extent did the said McDaniel say that he was interested in this claim?

Answer 5. He told me he was to have one-third interest in a mile square, including a spot called Knight's landing, within the land claimed, which mile square, or a portion of it, was to be laid off in town lots. He told me that he had contracted with Mrs. Knight, the widow of the deceased William Knight, for this interest. He said that he was to lay off the town lots and attend to the sale of them, and that for so doing he was to receive, in addition to the one-third interest in the mile square, a league of land adjoining or near the said mile square of land, being a part of the land claimed. This is the substance of what he told me in regard to the terms of the contract. He told me that Mrs. Knight had refused to comply with the contract by refusing to make him any title to the land, and that he had commenced, or was about to commence, a suit for the enforcement of the contract.

(The next preceding question and answer were objected to by counsel for claimant.)

Question 6. Do you know whether or not he did commence such a suit; and if so, what was the result of that suit?

Answer 6. I know from the record in Yolo county that he did commence such a suit, and I believe it terminated in a judgment in favor of Mrs. Knight, with costs.

Question 7. Do you know whether anything further was done in

regard to the interest claimed by McDaniel under the contract you have mentioned?

(Question objected to by the counsel for the claimant.)

Answer 7. I do not, of my own knowledge. I have heard the administrator of Knight's estate, and Mr. Snowball, who married one of the heirs of Knight, say, in a conversation in regard to a recent act of the legislature concerning claims against the estate, that the interest of McDaniel was one of the incumbrances upon the estate, held by Thomas W. Sunderland, of Sacramento. The act in question authorized the judge of the probate court of Yolo county, within which the land claimed is situated, to order a sale to be made of portions of the land for the purpose of paying the expenses of the prosecution of this suit, and taxes, and other indebtedness of the estate. The administrator and Snowball spoke of the interest of McDaniel, under the contract I have mentioned, as one of the incumbrances upon the estate held by Sunderland, who has had the management of the prosecution of this claim, and which was to be paid off by the proceeds of the sale. The conversations have been held since the last session of the legislature of this State, at which session the act in question was passed.

(Answer objected to by the counsel for the claimant.)

Question 8th. Did you have any conversation with McDaniel during the time he claimed an interest in the land claimed, touching the validity of the claim prosecuted in this suit? if yea, state what such conversation was as nearly as you can in the terms used.

(Question objected to by the counsel for the claimant.)

Answer. Some time after, I stopped at the place at which I am now living, which is on the land claimed, which was in September, 1850; I think in the fall of 1850, or the early part of 1851. McDaniel came to my house and proposed to me to become interested with him in the grant, or at least to take the management and oversight for him of his interest in it. In reply to this proposition, I told McDaniel that there was, I supposed, no grant for the land, as I had understood from the rumors of the neighborhood there was no papers, no grant, for the land.

He remarked in reply to that, that it was true when he took hold of the case there was no papers in the case, but that he had been to the trouble of going to Los Angeles or Monterey, I do not remember which he mentioned; and that he had had made out as good a set of papers as there was to any grant in California. These are, as nearly as I can recollect, the words he used. I made no reply to this that I remember, because I was perfectly satisfied if that was the case, that I would have nothing to do with the claim; I may have made, and it is likely I did make some kind of evasive reply to it.

(Answer objected to by the claimant's counsel, on the ground

that it is hearsay, and that McDaniel should be called as a witness.)

Question 9th. Do you know when McDaniel came to California?

Answer. I do not of my own knowledge. I knew him in Missouri before he came to this country; but I do not know when he came here. I am pretty confident I have heard him say he got into the lower part of California about the fall of 1849, and had worked his way up to the northern part of the State; but I do not remember precisely.

Question 10th. Do you know anything more of McDaniel's connection with this claim?

Answer. Nothing more than that he told me he had let Sunderland have an interest in the claim, to aid him in the prosecution of it. What he said was about this: Said he, I had read a little law at home, and since I have come here I have become a lawyer; but I have not sufficient confidence in myself to undertake the management of this claim alone, and I have given Sunderland an interest in the claim in order to procure his services in the prosecution of it. This is, as nearly as I can recollect, the remark he made.

(Answer objected to by the counsel for the claimant.)

Cross-examined by Volney E. Howard, Esq., of counsel for the claimant.

Question 1st. When did you first settle in the claim?

Answer. In September, 1850.

Question 2d. Do you claim a pre-emption on the claim?

Answer. I have had a quarter section of the land run off and recorded in the county recorder's office, under the State statute; and if the land shall prove to be public land, it is my intention to claim a pre-emption under the act of Congress. I am hopeful if this claim is rejected, the land will prove to *the* public lands; but I have heard of probable attempts to extend other claims over it. I have three sons who each claim a quarter section of land, similarly to me, on the land claimed.

(Question and answer objected to.)

Deposition of Mr. Gwinn objected to by the claimant's counsel, on the ground of interest.

H. GWINN.

Sworn to and subscribed before me, August 4th, 1857.

J. EDGAR GRYMES,
Special Commissioner.

Endorsed: Filed Aug. 13, 1857.

W. H. CHEVERS,
Deputy.

Deposition of Jacob P. Leese.

United States District Court, northern district of California.

JAMES G. MOREHEAD
vs.
THE UNITED STATES.

SAN FRANCISCO, *September* 15, 1857.

On this day, before J. Edgar Grymes, a special commissioner and referee, appointed by the dist. court of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Jacob J. Leese. a witness produced on behalf of the United States in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn and testified as follows:

Present, U. S. dist. att'y, and Gould and Howard for claimant.

Questions by U. S. Dist. Att'y.

Question 1st. Are you the same person, by the name of Jacob P. Lease, who testified on behalf of the claimants in this case, since the same has been pending in this court?

Answer. I am.

Question 2d. Where were you living during the years 1844 and 1845; and what was your occupation and position?

Answer. I was living in Sonoma; my occupation was merchandising and farming. I was alcalde in 1844, till the 1st of June in 1845. I was 1st alcalde, and during that time there was also a second alcalde, whose name was Cayetano Juares.

Question 3d. Did the said Cayetano Juares *understood* anything of the English language; and if so, to what extent?

Answer. He did not know enough to speak or understand an English sentence.

Question 4th. Look upon exhibit "A," attached to the deposition of John A. Sutter, filed in this case, and examine the marginal notes on the second page of the said exhibit, and say what part of it, if any of those marginal notes was written by you.

Answer. All of those marginal notes except the words "una parte de ello," between my signature and that of John A. Sutter, *was* written by me at the date it purports. As to those words, I think I subsequently put them in, at the solicitation of Knight, and in the presence of Hardy, at the same time that I made the certificate, which appears in the said exhibit, on the last page, which was October the 8th, 1847.

Knight represented to me that it was by reason of my marginal decree on the 2d page of the said exhibit that he had not been

able to get his grant to the governor, he supposing that it had been granted to Hardy. On account of those representations I then added those words, "Una parte de ello."

Question 5th. Did he say anything more at that time in regard to his rancho on which he was then living?

Answer. Nothing more than that it was on account of the governor thinking that the land was occupied by Hardy, that he had been unable to get his grant.

Question 6th. Did you ever make any other report in regard to the land mentioned in said exhibit, except the one to which you have just above referred?

Answer. I do not recollect ever making any other.

Question 7th. When you made the certificate to which you have referred, were the papers thereto attached presented to you for examination, or were any of them, or any other papers concerning the said land?

Answer. Yes; he brought all his papers connected with his ranch. The only papers that I recollect are the papers embodied in the said exhibit attached to Sutter's deposition.

Question 8th. Did the said Knight have any other conversation with you concerning his claim to the said land at any time subsequent to the time when you *give* the said certificate? and if so, state the substance, time and place of such conversations.

Answer. He did not; he previously told me that he had not obtained a title on account of Micheltorena going out of the country.

Question 9th. Is there anything else that you now recollect, of or concerning the said Knight's title to the land described in the said exhibit, or any part of it? if so, state the same particularly.

Answer. There is nothing else.

J. P. LEESE.

Sworn to and subscribed before me this 15th day of September, A. D. 1857.

J. EDGAR GRYMES,
Special Com'r.

Cross-examination.

Question 1st. Relate the conversation which you had with Knight touching this grant, at the date of your report in 1844?

Answer. The only conversation which I then had with him was, that he requested me to report favorably as to the land mentioned in the decree of Sutter, which report is on the margin of the exhibit, on the 2d page thereof.

Question 2d. When did you next have any conversations with him touching this land?

Answer. I think it was some time in the spring of 1845, shortly after Micheltorena left the country. He informed me that he did not obtain a grant in consequence of my reporting that Hardy's

grant conflicted with his. I then recommended him to go to Gov. Pico to get a grant.

Question 3d. What was the occasion of this conversation?

Answer. He came to me and complained that my marginal decree had prevented him from getting a grant, in consequence of my reporting that his land conflicted with Hardy's.

Question 4th. About what month was this?

Answer. It must have been in the fall of 1845. It was after Micheltorena left the country, and about the time that I went out of office.

Question 5th. When did you discover your mistake about the conflict of Knight's land with Hardy's?

Answer. About June, 1845; about the time of the election of a new alcalde in my place.

Question 6th. Were Hardy and Knight both present when you made the alteration in your report of the words of "Una parte de ello?"

Answer. They were. This was about the time I made the certificate; about 1847.

Question 7th. Do you know anything of Knight's applying to Pio Pico for a grant, in conformity with your recommendations?

Answer. I know nothing more than that he said he was going to do so.

Question 8th. Did he ever inform you after that whether he obtained a grant or not?

Answer. No; he never did.

Question 9th. Was it in 1845 that he declared to you that he had not obtained a grant?

Answer. Yes; it was.

Question 10th. Did he ever make any declaration to the same effect subsequent to 1845?

Answer. I do not recollect that he did; I do not think that I saw him subsequent until the American flag was hoisted at Sacramento, or Sutter's fort, as it was then called.

Question 11th. What is your recollection as to the time when you added the said words, "Una parte de ello?"

Answer. I do not recollect anything about these words; if it was done by me it must have been done when Knight came to me, about the time when I was going out of office, as above stated.

Question 12th. Do you know when Knight first settled on this land?

Answer. It was about the year 1842; I passed by there in 1843, and he was then living there.

Question 13th. In your examination in chief you are made to say that Knight told you on the 8th of October, 1847, that he had not obtained a grant in consequence of your report—is this correct as to dates?

Answer. I will correct this by saying that the date should have been in 1845, about the time that I went out of office as aforesaid.

Direct Examination resumed.

Question 1st. Do you know whether Knight could write, and did you ever see him sign his name?

Answer. I do not. I never saw him sign his name.

Question 2d. Can you swear that the said words, "Una parte de ello," were added by you at all?

Answer. I cannot swear that they were; I do not recollect of their being added there by any one in my presence; I may have put them there.

J. P. LEESE.

Sworn to and subscribed before me this 15th day of September, A. D. 1857.

J. EDGAR GRYMES,
Special Commissioner.

Endorsed: Filed September 15th, 1857.
J. EDGAR GRYMES, *Deputy.*

Deposition of D. M. Berry.

United States District Court, northern district of California.

THE UNITED STATES
v.
JAMES G. MOREHEAD, Adm'r, etc., of William Knight, dec'd.

SAN FRANCISCO, *Dec.* 22, 1857.

On this day, before me, J. Edgar Grymes, a special commissioner, referee, appointed by the dist. court of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Daniel M. Berry, a witness produced on behalf of the United States in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, the United States district attorney; and Volney E. Howard, esq., counsel for the claimant.

Questions by the Attorney for the United States.

Question 1st. What are your name, age, and place of residence?

Answer. My name is Daniel M. Berry; my age 63 years and

upwards; and my residence is in Suisun valley, in Solano county, in the State of California.

Question 2d. Were you acquainted with the late William Knight, who lived upon and occupied the rancho known by the name of "Carmel," on the Sacramento river?

Answer. I was.

Question 3d. When and where did you become acquainted with him, and where was he living at the time you became acquainted with him?

Answer. I became acquainted with him in the fall of the year 1846, near Sutter's fort; he was then living on a ranch on the west side of the Sacramento river, about 30 miles, as it was estimated, above the present site of the city of Sacramento—generally known by the name of Knight's ranch.

Question 4th. Did you ever lived on that ranch? If yea, state how you came to go there to live, what was your occupation whilst living there, who lived on it at the same time with you, when you left the ranch, and why?

Answer. When I met Knight at Sacramento, he and I made a bargain that I should go and live on the ranch with my family, and till such parts of the land as I pleased, and he was to have a part of the proceeds; I was to take care of his family during his absence with the troops under Colonel Fremont, and take care of the stock, etc., until his return. I built a log cabin on the land close by Knight's house, and carried my family there, and tilled a part of the land, and took care of Knight's family until the spring of 1847, when I carried Knight's family over to Sonoma, where they remained by themselves until Knight's return, about a month afterwards, when he got me to go after them, and bring them back to his ranch, which I did. During this time nobody lived on Knight's ranch but he and his family, and I and mine; I moved off his ranch in the summer of 1847, on account of the mosquitoes getting so thick, and went to a place about six miles distant.

Question 5th. Did you ever have any conversation with Knight on the subject of his title to the ranch? If yea, state, as near as you can, the time, place, occasion, and substance of that conversation or those conversations.

(This question was objected to by the counsel for the claimant.)

Answer. I have at several times heard him speak of his papers to the land, and abuse John Bidwell for not getting his grant from the governor, as he had sent him to do at some previous time, as he said; he said, likewise, that he thought his claim would be doubtful in consequence of Bidwell's neglect at that time. His main plea for getting a grant was, he told me, that he had a shadow of a title; that he had alcalde's papers; he said Fremont or Bidwell—I don't remember which—had told him that a shadow of a title would be good. In the summer of 1847, I offered to buy

of him a piece of the ranch; his answer was, "that he dared not break it—he was afraid it would weaken his title; that when he got his grant, or a title to the ranch, he would let me have as much of it as I wanted." Whilst his family was at Sonoma in the spring of 1847, Knight got me to go after his family, saying he thought he would lose the ranch unless he kept some persons and stock upon it.

(The foregoing answer was objected to by the counsel for the claimant.)

Question 6th. Did you ever hear Knight speak of the quantity of land he had applied for to the Mexican government? If yea, state what he said on that subject.

Answer. He told me had always applied for ten leagues, and they would not grant him so much; that he could have got two or three leagues, and that if he could not get more than that, he did not want any.

(The foregoing question and answer were objected to by the counsel for the claimant.

Cross-examination was declined by the counsel for the claimant.)

D. M. BERRY.

Sworn to and subscribed before me, this 22d day of December, A. D. 1857.

J. EDGAR GRYMES,
Special Commissioner.

Endorsed: Filed Dec'r 22d, 1857.
J. EDGAR GRYMES, *Deputy.*

Deposition of Wm. McDaniel.

United States District Court, northern district of California.

THE UNITED STATES
vs.
JAMES G. MOREHEAD, Adm'r of Wm. Knight, dec'd.

SAN FRANCISCO, *Dec'r 22d*, 1857.

On this day, before J. Edgar Grymes, a special commissioner and referee, appointed by the dist. court of the United States for the northern district of California, duly authorized to administer oaths, &c. &c., came Wm. McDaniel, a witness produced on behalf of the claimants in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, the United States dist. att'y, and Volney E. Howard, esq., counsel for claimant.

Questions by Claimant's Counsel.

Question 1st. What is your name, age, and place of residence?

Answer. My name is William McDaniel; 57 years old, and I reside in Solano county.

Question 2d. When did you first come and settle in California?

Answer. In 1849.

Question 3d. Have you read the deposition of Harrison Gwin, taken in this case, August 4th, 1857?

Answer. I have this day read a paper purporting to be his deposition.

Question 4th. What have you to say in relation to his statement, that you had declared to him that when you took hold of the case there were no papers in the case, but that you had been to the trouble of going to Los Angeles or Monterey, and had had made out as good a set of papers as there was to any grant in California?

Answer. I declare most unequivocably that I never told him or any other man so; nor did I ever go to Monterey or Los Angeles either to see about it.

Question 5th. Did you ever examine the records of grants or the archives at Los Angeles or Monterey, for the purpose of ascertaining whether there was a grant to Wm. Knight; and if yea, when?

Answer. I never went for it; nor did I ever examine the archives for a grant to William Knight there.

Question 6th. Did you ever examine the archives of the Mexican government for that purpose in any other place; if yea, when?

Answer. I attempted to do so in Benecia; I think it was in 1850, when they were in charge of the quartermaster's department. There being no competent translator there, I could not make anything out of them; I saw papers there with the name of Wm. Knight, but neither myself nor the clerks in charge of them could translate them.

Question 7th. Did you ever have any paper made, purporting to be a grant or title, or anything of that character, to Wm. Knight for land?

Answer. I never did, sir; I did not believe there was a man in this world that would state it.

Question 8th. Did you ever have in your possession any grants or title-papers for land from the Mexican government, or from any of its officers, to Wm. Knight; if yea, what?

Answer. I had some papers; it is *to* long ago that I cannot remember the number; but there was not a complete grant; the final

grant was never in my possession; I had in my hands the papers constituting what what was called the general title; the general title consisting of a petition, a reference, and an order from the governor to Gen'l Sutter. There was also a letter addressed to the alcalde of the Sonoma district; I received the above papers from Mrs. Knight; I considered them an equitable title.

Cross-examined.

Question 9th. Were those all the papers pertaining to Knight's title to the land claimed that were placed in your hands by Mrs. Knight?

Answer. I do not think they were; they were other papers, but I cannot describe them.

Question 10th. Why and for what purpose were those papers placed in your hands?

Answer. They were put in hands in the spring of 1850, pretty early; I was by an agreement with her to present them to the government of the United States to get a confirmation.

Question 11th. What were the terms of that agreement?

Answer. She was to give me a league of the land if I had it confirmed.

Question 12th. What did you do in reference to the prosecution of the claim?

Answer. Before I could do anything, I transferred the whole contract to Mr. Thomas Sutherland, and to Mr. Ralston; they were partners.

Question 13th. For what consideration did you do so?

Answer. For $2,000. I cannot state when the transfer was made, but I think it was in 1851; it may have been earlier or later.

Question 14th. When was the consideration to be paid?

Answer. A portion of it was paid, and I think the balance was on a note for a short time.

Question 15th. When did you first hear of the alleged grant from Governor Pico to William Knight for the land claimed, which is alleged to have been made in 1846?

Answer. Some time in the winter of 1849 and 1850; I was informed by Stephen Cooper that Knight's heirs had a grant for ten leagues, but I do not think he told me what was the date of the grant or who had made it; I understood from him that the land now claimed is the tract covered by the grant to which I referred; I think that in the spring of 1850, that Matheweson Harvin told me that Pio Pico had made Knight a grant.

Question 16th. When did you first hear that the grant from Pio Pico to Knight was lost?

Answer. I cannot state that Mrs. Knight told me that the grant from Pio Pico was lost, but she stated that Mr. Knight had taken some papers to Knight's ferry on the Stanislaus, when I saw her

at Wolfskill's in the spring of 1850; I cannot state when I heard that a grant from Pio Pico to Knight was lost; I wrote to Mr. Dent, who was said to be the administrator of Knight, to know if he had any papers pertaining to that land claimed by Knight, but I never received an answer.

Question 17th. Have you any reason to believe that the papers on which the claimants in this case *relies*, or any of them, are similated, or in any way fraudulent?

Answer. In the first place I do not know what papers the claimant in this case rely upon, and I have not seen a paper purporting to the grant since the time of the transfer to Sutherland and Ralston.

Question 18th. Have you any reason to believe that any paper or papers pertaining to or connected with the claim to the place called Carmel, or Knight's ranch, are or have been in any respect similated or fraudulent?

Answer. I know nothing of any papers pertaining to the claim except those that were in my hands, and I have every reason to believe that they were genuine; and I have no knowledge, information or belief in regard to the genuineness of any other paper or papers pertaining to the claim.

Question 19th. Have you any interest in the event of the prosecution of this claim?

Answer. No, sir; not a cent.

Question 20th. When did you cease to have any interest in the tract of land called Knight's ranch?

Answer. At the time of transfer to Sutherland and Ralston; I think it was in 1851.

Question 21st. Did you ever have a conversation with Harrison Gwin in regard to this claim?

Answer. I am inclined to think I did, but I cannot now tell the purport of the conversation; some time in 1851 and 1852, I staid all night at his house, and I have no doubt that I had a conversation with him concerning this grant, but, as I have stated above, I cannot tell the purport of the conversation; there were no other person present to the best of my recollection, except his family.

Question 22d. At the time of the transfer of your interest in the claim to Sutherland and Ralston, were you aware of the existence or alleged existence of a grant from Pio Pico to Wm. Knight, of the land claimed in this suit?

Answer. I was aware of the alleged existence of a grant, but I did not know positively that it did exist; I heard from various sources of the alleged existence of the grant, and from Mat. Harbin that Pio Pico had made a grant to Wm. Knight.

Direct resumed.

Question 23d. What led you to examine in the quartermaster department at Benicia for a grant to Knight?

Answer. I learnt that the archives were kept there, and that Mr. Harbin had told me that there was a grant made, and I went there to see if it was on file.

Question 24th. Describe as well as you can the papers connected with Knight's name, that you saw there in the office of the quartermaster.

Answer. I cannot describe them; there was several sheets with his name on, but we could not read them, and I cannot describe them at all.

Cross-examination resumed.

Question 25th. Did you ever ascertain whether or not there were any papers in the archives of the former Mexican government containing a grant or copy of a grant, or the equivalent of a grant to Wm. Knight of the land claimed?

Answer. I never did; I went to the office for the purpose of ascertaining, but there was no translator there; I came to San Francisco once for that purpose amongst others, and went to the place where the archives were kept, but the person in charge of them was too busy to make an examination.

WM. McDANIEL.

Sworn and subscribed before me, this 22d day of December, A. D. 1857.

J. EDGAR GRYMES,
Special Commissioner.

Endorsed: Filed Jan'y 15th, 1858.

W. H. CHEVERS,
Dep. Cl'k.

Deposition of Henry W. Halleck.

UNITED STATES LAND COMMISSION,
San Francisco, March 14th, 1854.

On this day, before Commissioner R. Aug. Thompson, came Henry W. Halleck, a witness on behalf of claimant, Joseph L. Major's case, 280, who, after being duly sworn, deposed as follows:

Present, claimant's attorney and U. S. land agent. Witness states his name Henry W. Halleck; his age thirty-eight, and residence San Francisco.

Question 1st by claimant's counsel. How long have been in California; in what capacity did you come here; and what office have you filled since?

Answer. I came to California in January, 1847. I came as an officer of engineers to examine the Pacific coast with reference to military defences under orders of the U. States Secretary of War. A few moments after my arrival I was appointed Secretary of State, which office I held until about the end of December, 1849,

and as such had charge of the archives of the former Mexican government. I did not deliver them over until some time in February, 1850. I then turned them over to Maj. Canby, assistant adjutant general of this military department. While I had charge of these, they were kept in Monterey. They were subsequently removed to Benicia, and kept there until they were consigned to the care of the U. S. surveyor general.

Question 2d by same. State whether, while you were in charge of said archives, your orders or duties required you to examine the same, and report upon the land titles in California, and what opportunities you had of becoming acquainted with their contents?

Answer. I was directed by Governor Mason to examine the archives and report on certain points connected with said land titles, which I did. The archives being very voluminous, the examination, for want of time, was not very thorough. The archives were also in great confusion and much mutilated, and were kept in different places in the town; parts of the same document were sometimes found in different places.

With the assistance of W. E. P. Hartnell, I arranged them in the best manner I could under the circumstances. When I first went to Monterey in January, 1847, I found a portion of the archives in the custom-house, which was then used as a hospital for the sick soldiers and seamen. They were piled up against the wall in the room in which the sick were lying; and the persons in attendance were using them as waste-paper.

They were supposed to be custom-house documents, and of no value.

Some weeks afterwards, I picked up a mutilated document from the floor, and on examination found it to be a page of an espediente in reference to land title. I called General Kearney's attention to it, and he sent Mr. Hartnell to see what they were. He reported that they were part of the archives of the government of Mexico mixed up with custom-house papers; and they were then removed to a more secure place and locked up.

Another portion of what now constitutes the archives in the custody of the U. S. surveyor general were brought by Col. Fremont from Los Angeles in, I think, the month of May, 1847. They were packed on mules, and were in a very bad condition, being much torn and mutilated.

The constitute all the archives now in the custody of the surveyor general, except a few that were brought in afterwards by individuals, who stated that they were public documents belonging to the archives.

The fact of such deposit, and together with the date, was in all cases endorsed on such document either by myself or Mr. Hartnell.

* * * * * * *

(Signed) H. W. HALLECK.

Filed in office March 18, 1854.
(Signed) GEO. FISHER, *Sec'y.*
Recorded in Ev. B., vol. 4, p. 69.
(Signed) GEO. FISHER, *Sec'y.*

Cross-examined by Claimant.

Will you please examine the index in the office of the surveyor general of the United States, among the archives of the late Mexican government, for the grant of land, and an extract of which is hereto attached, marked Exhibit A, and say when the index of title upon which the grant to William Knight appears was made, and by whom, and *on* whose handwriting the same is, if you know?

Answer. I have examined the index referred to in the question, and now in the office of the surveyor general. It was made in the year 1848, or about that time, by Mr. W. E. P. Hartnell and myself, and is in Mr. Hartnell's handwriting. The entry of the grant to William Knight is in Mr. Hartnell's handwriting, and was made at the time of compiling that index—that is, in 1848, or about that time, while I was in charge of the archives.

H. W. HALLECK.

Yndice de Terrenos, concedidos en diferentes tiempos que antes no tenian numeracion.

513. Bolsa del Charmisal—Francisco Qujada.
514. San Vicente—Antonio Rodriguez.
515. 7 leguas de tierra junto á los Angeles—Julian Mauriquen.

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550. Carmel—Guillermo Knight.

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OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and as such, having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, by virtue of the power vested in me by law, do hereby certify, that the preceding and hereunto annexed page of tracing paper exhibits a true and accurate extract from a paper entitled "Yndice de Terrenos concedidos en diferentes tiempos que antes no tenian numeracion," now on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San Francisco, this nineteenth day of October, (19,) 1855.

[SEAL.]

JOHN C. HAYS,
U. S. Surveyor General for California.

Extract from the 2d section of the act of Congress, "providing for the survey of public lands in California, and for other purposes," approved March 3d, 1853.

"The Secretary of the Interior is hereby authorized to cause an official seal to be prepared for the office of the said surveyor general, (California,) and any copy or extract from the plats, field-notes and other records and documents on file in his office, when attested as such by the said seal and the signature of the surveyor general, shall in all judicial matters have the same force and effect as the original."

It is agreed that the within testimony shall be considered as egularly taken as in evidence.

V. E. HOWARD,
For Claimant.
P. DELLA TORRE,
U. S. Att'y.

Endorsed: Filed Jan'y 15, 1858.

W. H. CHEVERS,
Dep. Cl'k.

Motion to vacate submission and to take further Testimony.

In the U. S. District Court for the northern district of California

JAMES G. MOREHEAD, Adm'r,
vs.
UNITED STATES.

Now comes the said claimant and moves the court to vacate the order of submission heretofore made herein, as to open the case for further testimony.

The motion is made upon the affidavit herewith filed.

V. E. HOWARD, and
THS. SUNDERLAND,
For Claimant.

Notice of motion waived.
April 1, 1858.
Endorsed: Filed April 2, 1858.

W. H. CHEVERS, *Clerk.*

Affidavit of T. Sunderland, on motion to vacate submission.

In the U. S. District Court, for the northern district of California.

JAMES G. MOREHEAD, Adm'r,
vs.
UNITED STATES.

Thos. Sunderland, being duly sworn, says, that he is one of the attorneys in the above entitled cause, and is also interested in the land claimed; that since the submission of said cause affiant has discovered new, and, as he believes, material evidence, which he could not with reasonable diligence have discovered before the submission of said case; that said newly discovered evidence is in part set out in the affidavit of Samuel Brannan, and now filed, the existence of which evidence affiant first learned on yesterday.

Affiant further says, that he has recently conversed with José de la Rosa and Salvador Vallejo, and that if this case is opened for further testimony, he will be able to prove, as he verily believes, by the said José de la Rosa, that he was in January or February, 1846, first alcalde of Sonoma, and that while acting as such alcalde, and in one of said months, he made a report or "informe," at the request of said Knight, certifying that there was no impediment to the granting of said land now claimed.

Affiant further says, that he expects to prove by said Salvador Vallejo, that he saw Knight have in his possession in the year 1846, or 1847, a grant from Pio Pico for the land claimed herein.

Affiant further says, that since the submission of said cause he has learned that W. E. P. Hartnell made an index of the espedientes in the "archives," commencing the same in the spring of 1847; and that said index was completed before the commencement of the index spoken of by Capt. Halleck in his deposition taken in this case. The facts last above mentioned affiant has learned from said Halleck.

The said index so commenced in 1847 is now in the surveyor general's office, and shows the existence of the said espediente at the time of making the said index.

Affiant also says he will be able to prove by said Halleck, that when he first took possession of the archives, there was no book of record of the grant made in 1846, nor did he *can* find such book.

Affiant further says, that since the submission of said cause, he

has learned from A. H. Gillespie, whose deposition was taken in this case on the part of the U. S., that said Knight, after the commencement of hostilities in 1846, did not leave the Sacramento valley until the fall of that year, and did not reach Los Angeles until about the 1st January, 1847, which facts can be established by said Gillespie and others, as affiant has ascertained.

Affiant says that he has learned all of the above facts since the submission of the case; that he did not consider a part of them important to be proved until the recent decision by the Supreme Court in the case generally known as the "Cambuston" case; that, as to the residue, he was not, *not* after due diligence, able to discover the same.

THOS. SUNDERLAND.

Sworn to and subscribed April 1st, 1858, before me.

W. H. CHEVERS,
U. S. Com'r.

Endorsed: Filed April 2, 1858.

W. H. CHEVERS, *Clerk.*

Affidavit of S. Brannan.

In the U. S. District Court for the northern district of California.

JAMES G. MOREHEAD, Adm'r,
vs.
UNITED STATES.

Samuel Brannan, being sworn, says that he knew William Knight during his lifetime, and that in the early part of the year 1847 affiant was at Yerba Buena, now San Francisco, when the said Knight arrived there from the southern part of California, as bearer of despatches, or courier.

The said Knight, immediately upon his arrival, gave affiant and others information of an attempt on the part of some Californians to capture him on his way up and a short distance from San Francisco; that be was pursued for some distance by the said Californians, and in making his escape he had lost his title-papers to his land on the Sacramento river.

Affiant further says, that some time in the year 1848 he was at the rancho of said Knight, at the place now called Knight's landing; and Knight then told affiant that, as the country had passed into the possession of the United States, he feared he might have some difficulty about his land, having lost his title-papers on the occasion above alluded to.

S. BRANNAN.

Subscribed and sworn to before me this 1st April, A. D. 1858.

GEO. T. KNOX, [SEAL.]
Notary Public.

Endorsed: Filed April 2, 1858.

W. H. CHEVERS, *Clerk.*

Affidavit of Jose de la Rosa.

In the District Court of the United States for the northern district of California.

JAMES G. MOREHEAD, Adm'r,
vs.
UNITED STATES.

José de la Rosa, being sworn, says that he held the office of alcalde of Sonoma in the year 1846 until about the first of March; and that, while thus acting as alcalde, he, at the request of William Knight, whom he personally knew at the time, granted a certificate or informe in favor of the granting by the governor of a tract of land on the Sacramento river, above the arroyo then known as "Jesus Maria," but now known as "Cache creek;" that said informe was given for the purpose of accompanying the petition of said Knight; that affiant has this day examined the petition on file in the "archives" in the surveyor general's office, and he believes the same to be the identical petition which Knight then had in his possession.

Affiant further says, that at the same time the said Knight a map or diseño in his possession, which he then understood was to accompany the said petition also; that he saw the said map or diseño, as also the said petition, at Sonoma, when the said informe was made and dated.

JOSE DE LA ROSA.

Subscribed and sworn to before me this 1st day of April, A. D. 1858.

JOHN BENSON, [SEAL.]
Notary Public.

Endorsed: Filed April 2, 1858.

W. H. CHEVERS, *Clerk.*

Affidavit of S. Vallejo.

In the District Court of the United States for the northern district of California.

MOREHEAD, Adm'r,
vs.
UNITED STATES.

Salvador Vallejo, being sworn, says that he well knew William Knight in his lifetime, and that in the year 1846 affiant resided in Napa valley; that said Knight, in passing from his rancho on the Sacramento river to Sonoma, and also on his return, frequently stopped at the house of affiant; that some time in the year 1846

Knight, while thus stopping at his house, showed to affiant a paper purporting to be a "titulo" from Pio Pico, as governor, to said Knight, for ten leagues of land on the Sacramento river.

Affiant further says, that he was well acquainted with said Knight, and was frequently at his rancho, and knows that he occupied the same for several years before the year 1846.

SALVADOR VALLEJO.

Subscribed and sworn to before me this 1st day of April, 1858.

JOHN BENSON, [SEAL.]
Notary Public.

Endorsed: Filed April 2, 1858.

W. H. CHEVERS, *Clerk.*

Order.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room, in the city of San Francisco, on Friday, the second day of April, in the year of our Lord one thousand eight hundred and fifty-eight.

Present, the Honorable Ogden Hoffman, district judge.

JAMES G. MOREHEAD, Adm'r of Wm. Knight, dec'd,
vs.
UNITED STATES.

On motion of counsel for claimant, it is hereby ordered that the submission of the above entitled cause be vacated and set aside, and that the claimant be allowed within thirty days to introduce the testimony of the witnesses named in the affidavits this day filed to prove the facts stated in the said affidavits, and that the district attorney be permitted to introduce testimony on behalf of the United States in reply.

Endorsed: Filed April 2d, 1858.

W. H. CHEVERS, *Clerk.*

Deposition of S. Brannan.

United States District Court, northern district of California.

THE UNITED STATES
ads.
JAMES G. MOREHEAD, Adm'r, &c.

SAN FRANCISCO, *April* 3, 1858.

On this day, before Cutler McAllister, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Samuel Brannan, a witness produced on behalf of the claimant in case No. 106, being an appeal from the board of commissioners to ascertain and settle the

private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn and testified as follows:

Present, U. S. att'y, by Andrew Glassell; V. E. Howard for claimant.

Questions by Att'y for Claimant.

Question 1st. Your name, age, and place of residence?

Answer. Samuel Brannan; 39 years of age; I reside in San Francisco.

Question 2d. Were you acquainted with William Knight in his lifetime?

Answer. I was; I knew him since the spring of 1847 until his death.

Question 3d. Do you know anything of his occupying a ranch in the Sacramento valley? If so, state where the ranch was situated.

Answer. He occupied a ranch in the Sacramento valley, on the Sacramento river, the place now called Knight's Landing.

Question 4th. Do you know anything of his having a title or grant to the same? and if yea, state all you know in relation to it.

Answer. In the winter of 1846 or the spring of 1847 Knight rode an express for the government, from the lower country to the northern department; he came into San Francisco and stated that the Sanchezes or Californians attempted to lasso him; that he made his escape from them and they followed him for several miles, and that he had lost his papers that he had for his ranch, his title papers; about March, 1848, I staid over night at his house and got some fresh horses from him; rode with him, the next day, from there to Sutter's fort; on the way he stated, as the government had changed into the hands of the United States, he was afraid that, having lost his papers, he would have some trouble in holding on to his lands.

Question 5th. Did he describe the papers or say by whom they were issued?

Answer. I do not remember; they were from the government; I had no business transactions with him till after March, 1848; he was on his way to the mines at the time we had that last conversation, in March, 1848, to see if there was any gold in the mines; he had been a gold-digger in Mexico.

Cross-examination.—Questions by U. S. Att'y.

Question 1st. How many times before March, 1848, did you ever see Knight?

Answer. I saw him in winter of 1847, or spring of 1847, in San Francisco; I saw him once before the spring of 1848.

Question 2d. Did you get acquainted with him the first time you saw him?

Answer. Yes; he was stopping either at Jones's or Leidesdorff's public house; he brought the express from the south for the government; at that time the citizens were all under arms, and we all took a great interest in his arrival; at that time we learned of the attempt to lasso him and to take the papers from him; there was a crowd of people around, all anxious to hear what he had to say; I had a conversation with him by myself, about the news, &c.; I cannot swear to the nearest of those who were present; it was in a public room; I think that Jones and Leudesdorff were present; I had a conversation with him at that time, and in the evening also; he expressed his regrets that in riding fast he had lost his papers; Jones and Leudesdorff are both dead.

Question 3d. Do you know of any person who was present at the narration which you have just detailed from Mr. Knight?

Answer. I could not swear to any person, unless it might be Mr. Brown, now a resident of Santa Cruz, and Mr. Jones and Leudesdorff.

Question 4th. Do you know what Mr. Brown's occupation was when he was here; what his first name is; and where he now resides?

Answer. I think he was bar-keeper, engaged in public house; his first name I don't remember; he resides now in Santa Cruz, as far as I know.

Question 5th. How did Mr. Knight carry despatches for the government?

Answer. On horseback; I did not see him come in.

Question 6th. Do you remember what news he brought at that time?

Answer. He brought government despatches, which I suppose were handed over to the officers; I do not recollect what particular news he brought.

Question 7th. Did Mr. Knight say that he had lost any of the government despatches at that time?

Answer. I do not remember it he said so.

Question 8th. Do you remember who was military commandant of Yerba Buena at that time?

Answer. I think Commodore Mervin; Commodore Stockton had command of the coast; at that time Fremont was south.

Question 9th. Did Mr. Knight inform you between what posts he carried despatches?

Answer. I do not remember that he did; he came from the south I know; where the particular officers were located at the time, he might have told me, but I do not remember.

Question 10th. Did he inform you whether or not he came from the American army below; if so, who was in command of the army and where was it located at that time?

Answer. He did; Fremont was in command on land, I think, and Stockton on the sea; Kearney came in and there was a dispute between himself and Fremont; they both claimed the command.

Question 11th. What enables you to fix the date of the conversation referred to?

Answer. I left San Francisco for the Rocky mountains, 5 April, 1847, and did not return until the following November.

Question 12th. Do you *rember* the particular words he used; whether he said grant or title papers?

Answer. I understood him to say that he had lost the grant to his ranch.

Question 13th. What is the distance from Knight's ranch to Sutter's fort?

Answer. About 34 miles by land, the way we had to go then, it being high water. We crossed the Sacramento river at Sacramento city.

Question 14th. Have you any interest in the event of this suit, directly or indirectly?

Answer. I have not.

Question 15th. Do you know where the army was from which Knight brought despatches, or did he tell you?

Answer. I cannot remember the precise location.

Question 16th. Did he say from what place he brought those despatches?

Answer. He did, but I do not remember. He belonged to Fremont's battalion, and the presumption is, that he either came from Fremont or Stockton.

S. BRANNAN.

Subscribed and sworn to before me, this 3d day of April, 1858.

CUTLER McALLISTER, [SEAL.]
U. S. Com'r.

Endorsed: Filed April 3d, 1858.

W. H. CHEVERS, *Clerk.*

Deposition of A. H. Gillespie.

In the United States District Court for the northern district of California.

JAMES G. MOREHEAD, Adm'r,
vs.
UNITED STATES.

The deposition of A. H. Gillespie, taken on the 27th day of April, A. D. 1858, at the city of Sacramento, by consent of parties, to be used on the trial of the above entitled cause, on the part of the appellant.

A. H. Gillespie, being first duly sworn, deposes as follows, to wit:

I am the same person whose deposition was taken in this case on the part of the United States. After William Knight had enlisted, as stated in my former deposition, he remained on duty in the Sacramento valley until late in the fall of the year 1846, and then went south with Col. Fremont as guide, and arrived at Los Angeles on or about the 16th day of January, 1847. This was the first time Knight went south after the commencement of hostilities in 1846. After remaining at Los Angeles about a month, Knight was sent north as bearer of despatches, and did not again go south, to my knowledge. On his first trip south, after the beginning of the war in 1846, Col. Fremont reached Los Angeles in the month of August of that year, and at once seized the "archives," as I learned on my arrival there, which was on the last day of that month. The "archives" and then placed in my possession, and I retained them until the 8th of September, when Col. Fremont carried them north, and, as I understood, to Sutter's fort. Pio Pico left the country in the month of September, 1846, and did not return while I remained. I left in July, 1847.

ARCHI. H. GILLESPIE.

Subscribed and sworn to before me, this 27th day of April, A. D. 1858.

WM. G. ENGLISH, [SEAL.]
Notary Public.

It is hereby agreed that the above deposition may be introduced and read in evidence, subject to the same objections and exceptions as if taken on due notice before a commissioner.

THOS. SUNDERLAND,
For Appellant.
P. DELLA TORRE,
U. S. Att'y.

GLASSELL AND LEIGH,
Of Counsel for the U. S.

Endorsed: Filed May 5, 1858.

W. H. CHEVERS, *Clerk.*

Exhibit No. 1.

STATE DEP'T OF THE TERRITORY OF CALIFORNIA,
Monterey, July 21st, 1848.

SIR: Your letter and accompanying papers announcing the return of Don Pio Pico have been received. You will require Don Pio to immediately report himself to you, and to give his written parole of honor that he will take no part whatever in the existing

war between the United States and Mexico, either by bearing arms himself or by inducing others to do so, or by giving the Mexicans any aid or assistance of whatever character. Should he refuse to give such parole, he will be held as a prisoner of war. He must, of course, be treated with all the respect due to his rank and character, but at the same time a strict watch must be kept upon his conduct.

By order of the governor.

H. W. HALLECK,
Lieut. of Eng's and Sect'y of State.

Col. J. D. STEVENSON,
Com'd'g, &c., Los Angeles.

Exhibit No. "1."

Affidavit of H. W. Halleck.

In the United States District Court for the northern district of California.

JAMES G. MOREHEAD, Adm'r,
vs.
UNITED STATES.

H. W. Halleck, being sworn, says that in the year 1847 he was acting as secretary of state under the military governor of California, and that in the same year W. E. P. Hartnell was assisting affiant in the duties of his said office, so far as related to the custody and charge of the "archives" then in said office, and was also acting as official translator to the governor; that in the early part of the said year, 1847, the said Hartnell *command* to arrange the espedientes, papers and documents now in the surveyor general's office, composing the present "archives," and at the same time the said Hartnell *command* to index the different espedientes, and continued the same so long as affiant remained at Monterey in that year; that about the month of October, 1847, affiant left California, and was absent until about the month of June, 1848; at that time the said Hartnell had completed the said index in the form in which it now appears, except as hereinafter stated; from the index thus prepared, and also from an examination of the espedientes on file, the index heretofore spoken of in the deposition of affiant now on file in the case was prepared. In the preparation of this last index, some few espedientes were discovered which had been overlooked by Mr. Hartnell, and a note of the same was then inserted by him in the first index made by said Hartnell, an extract of which is hereto attached.

Affiant knows that said index last above named was commenced in the early part of the year 1847, and with the above exceptions was completed before the month of June, 1848. Affiant has ex-

amined the said index now in the surveyor general's office, and knows the same to be the handwriting of the said Hartnell, and particularly the entry in the same of espediente No. 550, for the rancho "Carmel."

Affiant further says, that while in charge of the said "archives," they were always kept locked up except when the said Hartnell or himself was present, and no one in their absence had or could have access to the same.

Affiant further says, that by direction of Gov'r Mason, he wrote the letter dated July 21, 1848, found on page 572 of "California Message and Correspondence 1850," being House document No. , and that the same was written immediately upon receipt at Monterey of the news of Gov'r Pico's return to California.

Affiant says that neither at the time of his taking possession of the archives, nor at any time since, has he ever discovered any record-book or index of grants made in the year 1846, nor has he ever heard of the discovery of such book or index, save and except those made by affiant and the said Hartnell.

It is hereby stipulated and agreed, that the foregoing affidavit of H. W. Halleck shall be received in evidence with like force and effect as if taken upon notice by deposition, and that the paper purporting to be a traced copy of a page of the index referred to by said Halleck is a true copy thereof, and that the paper marked Exhibit No. "1" is a copy of the letter referred by said Halleck.

THOS. SUNDERLAND,
For Claimant.

April 3, 1858.

P. DELLA TORRE,
U. S. Att'y.

GLASSELL AND LEIGH,
Of Counsel for the U. S.

Endorsed: Filed May 5, 1858.

W. H. CHEVERS, *Clerk.*

Affidavit of T. Sunderland.

In the United States District Court for the northern district of California.

MOREHEAD, Adm'r,
vs.
UNITED STATES.

Thos. Sunderland, being duly sworn, says, that when the order was made by this court to allow further testimony to be taken within thirty days, he made an arrangement with M. G. Vallejo to inform affiant when the two witnesses, José De la Rosa and

Salvador Vallejo, could be found; that pursuant to said arrangement, he wrote to Gen'l Vallejo asking the whereabouts of said witnesses, and requesting him to say to them that affiant was desirous of taking their depositions on or about the 1st of May; that said letter was written at Sacramento, and directed to Gen'l Vallejo at San Francisco, with a request that the same be forwarded to him in case of his absence.

Affiant further says that he never received a reply to said letter, but on yesterday met Gen'l Vallejo, who then informed affiant that he had that day received said letter, which had been forwarded to him at Monterey, and then returned to San Francisco; that said letter was written and sent about the 18th or 20th of April, at which time affiant understood Gen'l Vallejo would return to San Francisco.

Affiant is informed by said Vallejo that said witnesses are both now at Monterey, and have not been either at Sonoma or Napa since they left for Monterey on the 3d of April.

Affiant further says, that since the order opening this case for further testimony, Col. J. C. Fremont has arrived in this State, and that said Fremont is the same person referred to in the depositions of Halleck and Gillespie, and affiant says he is desirous of taking the deposition of said Fremont to further show and establish the history of the "archives," and to prove their condition and whereabouts from the time they were taken in possession by said Fremont, until their delivery by him to Thos. O. Larkin and W. P. Hall at Monterey.

Affiant says, that he is informed and believes that said Fremont will prove that, to the best of his knowledge and belief, the espediente could not have been introduced amongst the "archives" while the said archives were in his possession.

Affiant further says, that he wishes to take the deposition of Pio Pico on the interrogatories now filed, and therefore asks the court to issue a commission authorizing the taking of said deposition.

THOS. SUNDERLAND.

Sworn to and subscribed before me, May 5, 1858.

W. H. CHEVERS,
U. S. Com'r.

Endorsed: Filed May 5, 1858.

W. H. CHEVERS, *Clerk.*

Direct Interrogatories to Pio Pico.

In the United States District Court for the northern district of California.

JAMES G. MOREHEAD, Adm'r,
vs.
UNITED STATES.

Interrogatories to be propounded to Pio Pico, a witness to be sworn and examined on the part of the appellant.

Question 1st. What is your name, age and place of residence?

Question 2d. What office, if any, did you hold in the years 1845 and 1846?

Question 3d. How did you become governor of California, or by virtue of what other office did you succeed to that of governor?

Question 4th. Did you ever receive a commission as governor of California, or were you otherwise recognised as such by the supreme government of Mexico? If so commissioned or recognised, please state when and in what manner; and if you received such commission, and the same is still in your possession, please annex a copy thereof to your deposition; also of any letters from the supreme government to you as governor.

Question 5th. Please look at the traced copy of the espediente numbered "550," hereto attached, and marked exhibit "A," the petition being dated Feb'y 1, and the decrees and borrador of title May 4, 1846, and say by whom they and each of them were written, if you know.

Question 6th. Look at the signatures to said decrees and say if the same are genuine.

Question 7th. *Was* was secretary under you on the 4th of May, 1846?

Question 8th. Where were the said decrees made and signed by you, if so made and signed?

Question 9th. Was the formal title made at the same time? If so, by whom was it signed?

THOS. SUNDERLAND,
For Appellant.

Endorsed: Filed May 5, 1858.

W. H. CHEVERS, *Clerk.*

Order continuing cause to 10th May.

At a stated term of the district court of the United States of America, for the northern district of California, held at the court-room, in the city of San Francisco, on Wednesday the fifth day of May, in the year of our Lord one thousand eight hundred and fifty eight.

Present, the Honorable Ogden Hoffman, district judge.

THE UNITED STATES ads. J. G. MOREHEAD, Adm'r, &c. } No. 106.

On hearing the affidavits filed this day, it is ordered that the above case be left open until Monday next, the 10th instant, for the purpose of taking the testimony of J. C. Fremont, Esq.

Endorsed: Filed May 5th, 1858.

W. H. CHEVERS, *Clerk.*

Deposition of J. C. Fremont.

United States District Court, northern district of California.

THE UNITED STATES
ads.
JAS. G. MOREHEAD, Adm'r.

SAN FRANCISCO, *May* 7, 1858.

On this day, before the district court (*by consent*) of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came John C. Fremont, a witness produced on behalf of the claimants in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn and testified as follows.

Present, the district attorney and Mr. Glassell for U. S., and Mr. V. E. Howard for claimants.

Questions by Claimants' Counsel.

Please to state all you know in relation to the custody of the records and documents belonging to the former government, touching land titles in California.

Ans. About Aug. 14, 1846, I received an order from Com. Stockton, then at Los Angeles, directing me to take charge of the public archives, which were then in possession of Don Luis Vigues, an old resident of Los Angeles, to whose charge they had been placed, as I understood by Pio Pico. I took possession of them accordingly, and retained them in my possession until about the end of September, when I placed them at what was then called Sutter's fort, on the American river. They made together about 2 mule loads, and I transported them in that way from Los Angeles to Sutter's fort.

Some time in March, 1847, seeing myself at Los Angeles, I received an order from Gen'l Kearney, dated about March 17th, directing me to deliver up all the archives and public papers belonging to the former government. Under this order they were delivered up, and consigned directly, I think, to the care of Mr. Hillard P. Hall, of Monterey. They were kept in Mr. Larkin's house, where I saw them, about the 13th May, 1847. I had been, up to the time I received the order of Gen'l Kearney, military commandant and governor of California. Mr. Hall was with Gen. Kearney; I don't know in what capacity.

Mr. Thos. O. Larkin had been acting as U. S. consul.

I understood that the archives had been kept in trunks by Mr. Vigues.

The Californians had just vacated Los Angeles when we entered on the 13th August. The archives were in reasonably good condition. I formed them into bales convenient for packing. They

were under my immediate charge until about the end of September, and up to that time no one but myself had access to them. I, myself, frequently examined them. I think I examined, more or less, every title in the archives. At the end of September they passed into the charge of E. M. Kem, then commanding at Sutter's fort.

About the time we took possession of Los Angeles, Pio Pico went to Sonora, where he remained, I think, until hostilities ceased.

Cross-examined.

I was aware of the value of these archives, and took precautions to have them protected; they were packed in bales and covered with blankets, so as to be secure from loss. A part of them were subsequently lost. I carried home some of them to be inspected at Washington; one I know I left there; the others were lost, with other effects, in the mountains of San Juan.

One of these titles referred to a grant to Gen. Castro. It was, I think, a title; whether the full title or the papers concerning a grant, I am unable to say.

These *was* lost in the mountains. There were three or four lost in the mountains.

The one left at Washington referred to the McNamara grant.

The archives I allude to were only those found at Los Angeles. I know nothing of any at Monterey, or at any other point than Los Angeles. When I last saw them, they were at Mr. Larkin's private residence, or in a room adjoining a store, above which he resided. It was not used as a hospital.

The feeling of the Mexican authorities towards Americans and American settlers, in March, April, and May, 1846, was hostile.

About May 1, 1846, I was about the Buttes, in Sacramento valley.

The rising of the American settlers in the latter part of that month was caused directly by a disposition on the part of the Mexican authorities to expel them. I knew Wm. Knight very well. I first saw him, I think, in the spring of 1846. I had heard of him as one of the settlers, and a former resident of New Mexico. He was a prominent actor in this rising, but not ostensibly so. He acted as a spy for me during the whole campaign. He became a spy for me in May. His occupation led him to the neighborhood of the bay, where he could communicate with the Mexicans and ascertain their movements.

The communication between the Sacramento valley and Los Angeles was open by the coast route, but more or less obstructed by Indians on the Tulares route. The season was very hot. The waters were rather low. I found no difficulty in finding any stream, except the Sacramento. I only speak of the Sacramento waters. I suppose communication would be difficult for American

settlers. I don't know whether Knight was in Los Angeles in May, 1846.

He spoke to me of his title frequently, and generally with the object of having me examine them. He brought them to me at Monterey, and returned to the Stanislaus; this was just before his death. He described them, but I do not recollect what the description of them was. I do not recollect of his saying anything of Micheltorena in connection with the papers. I think he spoke rather of Pico. He and I were on friendly terms. I had great regard for him. I don't recollect that he stated his papers were imperfect.

When he brought his papers to me in 1849, he could not have supposed I had any authority to complete his papers.

The convention was then sitting.

J. C. FRÉMONT.

Taken and subscribed before me, this 7th May, 1858.

OGDEN HOFFMAN.

Endorsed: Filed May 7th, 1858.

W. H. CHEVERS, *Clerk.*

Deposition of Sam'l Norris.

United States District Court, northern district of California.

THE UNITED STATES
ads.
JAS. G. MOREHEAD, Adm'r.

SAN FRANCISCO, *May* 12, 1858.

On this day, before W. H. Chevers, a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c., &c., came Samuel Norris, a witness produced on behalf of the United States in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 89 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present, Messrs. Glassell and Leigh for the U. S. dist. atty., and Mr. Volney E. Howard for the claimants.

Questions by the U. S. Att'y.

What is your name, age, and place of residence?

Answer. Samuel Norris; am 36 years old, and reside in Sacramento county, Cal.

Question 2d. Were you acquainted with William Knight, who formerly resided at the place called Knigh 's Ferry, on the Sacramento river?

Answer. I was; he is now now deceased.

Question 3d. Have you examined the deposition of Samuel Brannan in this case?

Answer. I have.

Question 4th. Do you know anything in relation to the facts stated by the said Brannan in the said deposition in reference to the declarations of the said Knight concerning the loss by him of certain papers, about the time stated in the said deposition? If yea, what do you know in relation thereto?

Answer. Mr. Knight was a courier employed by the government. He arrived here, in San Francisco, from the lower country, in the winter of 1846 and 1847—I think in January. I asked Knight what news from below. He stated the news and told me that the Spaniards had tried to lasso him while he was coming up, and that he lost his hat and the despatches in it. He said nothing about his losing any private papers.

Question 5th. Were you well acquainted with Knight? If yea, state when you became acquainted with him, and what was his character and condition.

Answer. Do not remember when I first became acquainted with him, but knew him as early as 1845. Don't know where he resided then. Before the war he was very poor. He did not own many cattle. In 1847 I saw him frequently at Knight's landing. He was a very restless man. Would stay at home a while, kill some elk for his family, then go off. He was a man of not much account. I had a general knowledge of the practice of the Mexican government in granting land. It was necessary for a man first to become a Mexican citizen to show to the government that he had a large amount of stock, 1,000 or 2,000 head of cattle, and that he required this land for the grazing and raising of the stock, or having the means to purchase that amount of stock, with intent to raise stock, if he could get the land.

(The latter part of this answer objected to by counsel for claimants.)

Cross-examined by Claimant's Counsel.

Question 1st. Was Knight a man of family?

Answer. He was.

Question 2d. Where did his family reside?

Answer. In 1847 they resided at what is now called Knight's landing, in Yolo county, near Sycamore slough.

Question 3d. Do you know of Knight's claiming that land at Knight s landing under any title?

Answer. I do not; I know he lived there; I have stopped there frequently of nights; it was called *Night's* ranch. I never heard him speak of his title; I might have heard him speak of it, but do not remember what he said.

Question 4th. Was your occupation in California of such a char-

acter as to lead you to the study of the law of the Mexican government in relation to the grants of land?

Answer. It was.

Question 5th. State what your occupation was.

Answer. Being anxious to get land myself, I inquired of the old citizens—Sutter, Vallejo, Alvarado, Leese, Murphy, and others—what were the regulations or laws in regard to obtaining grants of land, and in what way, together with living amongst the people here, I acquired the knowledge I have on the subject.

Question 6th. In what year did you emigrate to California, and from what country?

Answer. I arrived here in 1843 from the northwest coast. I am a native of Denmark. I went from the Sandwich Islands to the N. W. coast, and from thence came here.

SAM'L NORRIS.

Sworn to and subscribed May 12th, 1858, before me.

W. H. CHEVERS,
U. S. Commissioner.

Endorsed: Filed May 12th, 1858.

W. H. CHEVERS, *Clerk.*

Deposition of J. W. Shore.

United States District Court, northern district of California.

THE UNITED STATES ads. J. G. MOREHEAD, Adm'r.

SAN FRANCISCO, *Nov.* 16, 1858.

On this day, before the district court of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came John W. Shore, a witness produced on behalf of the claimant in case No. 106, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California in case No. 89 on the docket of the said board of commissioners, and was duly sworn and testified as follows:

Present, Messrs. Sunderland and Williams, for claimants, and the U. S. att'y; Messrs. Glassell and Leigh for the U. S.

Questions by Claimants.

What office do you hold?

Answer. I am clerk in the surveyor general's office, in charge of Mexican and Spanish archives.

Question 2d. Have you brought with you the original espediente No. 550, purporting to be an expediente promoted by the naturalized citizen, William Knight, for 10 square leagues, called "Carmel;" and also the two documents known as the Hartnell indexes?

Answer. I have. I produce them in court.

Question 3d. Are you acquainted with handwriting of Pio Pico?

Answer. I am. I have frequently seen him write from 1852 to 1857.

Question 4th. Look at the marginal order on the petition in the espediente and the signatures purporting to be those of Pio Pico on the 1st and 2d pages of the espediente, and say whose is the handwriting and whose are the signatures.

Answer. The handwriting in the marginal order is that of Pio Pico, and both signatures I believe to be his genuine signatures.

Question 5th. What opportunities have you had as clerk in charge of the archives to familiarize yourself with Pio Pico's signature?

Answer. I have frequently examined them as to their uniformity. I feel perfectly satisfied that those are his signatures.

Cross-examination.

Question 6th. Is the name of Pio Pico on the bottom of the last page in his genuine signature?

Answer. No, sir.

Direct resumed.

Question. Is it usual for the borrador or copy of the grant contained in the espediente to have the signature of the governor?

Answer. It is not usual, but I have seen it signed.

JOHN W. SHORE.

Sworn to and subscribed, Nov. 16, 1858, before me.

OGDEN HOFFMAN,
U. S. Dis't Judge.

Endorsed: Filed Nov. 16, 1858.

W. H. CHEVERS, *Clerk.*

Opinion of the Honorable Ogden Hoffman.

United States District Court, northern district of California.

JAMES G. MOREHEAD, Administrator, etc., vs. THE UNITED STATES. } L. C. 89; D. C. 106.

May 26th, 1859.

The land claimed in this case consists of ten leagues, situated on the Sacramento river, at the place now called "Knight's landing," in the county of Yolo.

The claim was rejected by the board for non-fulfilment of the conditions of occupation and cultivation. It appears, however, from the evidence, that Knight, the grantor, settled on the land in

1842 or 1843, and continued to occupy it until 1849, when he died, on the Stanislaus river, at a distance of about one hundred miles.

As early as June, 1843, Knight petitioned Governor Micheltorena for the land alleged to have been subsequently granted to him by Pio Pico, but in pursuance of Jimeno's recommendation, the proceedings on this, as on numerous similar applications, were suspended until the governor should make his projected visit to the Sacramento and San Joaquin valleys. On the 22d December, 1844, Micheltorena issued the document known as his "general title," whereby he granted to all the citizens who had solicited, with reports in their favor from General Sutter, the lands described in their respective petitions and maps.

As Knight had not only not obtained the favorable report of Sutter, but as the report of the alcalde of Sonoma, to whom the application had been referred by Sutter, had declared the land to be occupied by Don Tomas Hardy, he was, of course, not embraced within the class of grantees mentioned in the general title.

The grant on which the claimant, who is the administrator of Knight, relies, is alleged to have been made by Pio Pico on the 4th of May, 1846. The original grant is not produced, and evidence has been offered to prove its execution, loss and contents. It is objected that the loss of the original is not sufficiently proved to justify the admission of secondary evidence as to its contents.

"Where evidence of the contents of a writing alleged to be lost is proposed to be given, the natural order of making the proof is to show, first, that the original existed; secondly, that it has been lost; and, thirdly, its contents. It has been said, however, that unless proof is adduced satisfactory to the court, of the loss or destruction, evidence as to execution and contents cannot be submitted to the jury." Jackson vs. Tier, 16 Johns., 193; 1 Dall. R., 424; 3 Har. and Johns., 219.

"But these facts are frequently so intimately blended together, and have such a mutual relation to, and dependence upon each other, that it is difficult, and often impossible, to observe strictly the logical order of the proofs. The amount of proof of loss or destruction which will be exacted, depends in a great degree upon the nature of the case. If any suspicion hangs over the instrument, or that it is designedly withheld, a rigid inquiry should be made as to the reasons of its non-production; but where there is no such suspicion, all that ought to be required is reasonable diligence to obtain the original." Minor vs. Tillotson, 7 Pet. R., 99, 101.

"Where there is no ground for suspicion that the paper is intentionally withheld, nor any discernible motive for deception, courts are extremely liberal in regard to secondary evidence." 6 Vermont R., 399.

"Where the paper is of that description that no doubt can arise

as to proof of its contents, there can be no danger in admitting secondary evidence." 9 Wheat., 581, 587; 1 Bald. R., 521.

"Ordinary diligence is usually enough, and it will ordinarily suffice that the paper has been sought for where it might be supposen likely to be found, or was usually kept, and that the search was fruitless." 3 McCord R., 322.

The above observations, taken from the decisions of various courts, apply with much force to the case at bar. The original grant is alleged to have been lost; but the claimant produces from the archives the expediente containing the original petition, with the marginal order of the governor, the decree of concession which directs the title to be made out, and a copy of that title as delivered to the party. If these papers are genuine, the existence and contents of the lost grant are sufficiently proved, and no motive can be suggested for its suppression. The copy produced shows it to have been in the usual form and with the usual conditions, and the description of the land is, as usual, taken from the petition.

The real controversy of the case is not as to the contents of the lost grant, but as to whether a grant was ever issued. As the court, before it can be satisfied that a paper has been lost or destroyed, must first be satisfied that it once existed; the proofs of the latter branch of the inquiry must first be considered. If, then, the evidence in this case is sufficient to establish that a grant was made on the petition produced from the archives, I am clearly of opinion that the proofs of loss are sufficient to meet the technical requirements as to the admission of secondary evidence.

If, on the other hand, the evidence does not establish that a grant was made, then the claim must be rejected, because the claimant has failed to make out his case; but not for the reason that he has not furnished sufficient preliminary proof of the loss or destruction of his title to allow secondary evidence of the contents to be given.

It is proper to add, that, though the objection as to the insufficiency of the proof of loss was taken, the arguments of the counsel who represented the United States were chiefly directed to an investigation of the evidence relating to the existence at any time before the conquest of any grant of the land.

To this inquiry, which is thus, in any point of view, preliminary, we will now address ourselves. The only witness who testifies that he knows the grant was made, is José Matias Moreno. He states that when he was secretary to the government in 1846, Knight petitioned for a tract of land on the Sacramento; the governor made a decree for a title to the land petitioned for, and the title was accordingly issued. He further swears, that he believes the copy of the grant found in the expediente is a copy of the title issued to Knight.

If this witness was entirely worthy of credit, this testimony, confirmed as it is by the expediente found in the archives, would be

sufficient to establish the facts to which he swears. This court has, however, on more than one occasion, been compelled to reject as simulated and ante-dated grants, the genuineness of which was positively sworn to by Moreno. A careful investigation of all the testimony in the case is therefore necessary, notwithstanding his positive statements. J. M. Harbin swears that Knight was with him in the spring of 1846, at Los Angeles, about three weeks; that the witness was there about a month, and that he found Knight there, but he left the place before the witness; that Pio Pico, the governor, told him he had given Knight his papers, and that Knight also told him he had them when he was getting on his horse to leave; Knight also told him that he was going to leave his papers with John Wilson, of Santa Barbara, that he might obtain their confirmation by the departmental assembly. N. A. Den swears that he saw Knight in the spring of 1846, either in March, April, or May, on his way to Los Angeles, and also on his return. On his return, he stated that he had got his papers for his rancho, and a short time afterwards, in looking over the archives at Los Angeles, the witness saw evidence that he had done so. J. C. Davis swears that about the 5th of June he was in Colonel Fremont's camp at the "Buttes," when Knight came in and informed them that all the Americans in California would be ordered out of the country by the government. Some one then remarked that he would, in that event, lose his rancho, to which he replied that he had just returned from the lower country, and had procured his title papers; at the same time producing some papers which he said were his title, but which the witness did not read.

Evidence has been offered on the part of the United States, to show that Knight could not have been at Los Angeles in the beginning of May, as sworn to by Harbin, and that the relations which then existed between the Mexican authorities and the American settlers, rendered it in the highest degree improbable that the governor could have been induced to make him a grant. Knight's conduct and declarations are also relied on as showing that the only title papers he possessed were the Micheltorena papers of 1844.

Major John Bidwell, after detailing the circumstances connected with Knight's first application to Governor Micheltorena, and his failure to obtain a grant from that officer, states that he returned those papers to Knight in 1844, and that he did not see them again until the spring or summer of 1847, when Knight brought them to him, and asked him if anything more could be done with them, and if his title was a good one as the papers then stood; that some persons were under the impression that the American governors had the same authority to grant lands as the Mexican governors had possessed, and that Knight made the inquiry of him whether anything could be done with the papers, because he entertained such views or understood that they were entertained. The witness states,

that at this time Knight exhibited no other papers than those which he (witness) had returned, unless, perhaps, a copy of the general title of Micheltorena; but he is positive that there was no formal title shown him, nor was any reference made by Knight to any other title-papers for the land than those he exhibited to the witness. Major Bidwell also states, that in the spring of 1846, a journey from the Sacramento valley to Los Angeles and back would have required some six weeks to accomplish, and that it was considered unsafe unless in companies of eight or ten persons. Riding and pack horses were necessary, with provisions and led horses; that the water-courses were high, as they usually are in the spring, and that he (witness) was waiting in the spring of 1846, March, April and part of May, to make the trip, on account of the height of the water-courses necessarily crossed in travelling in that direction. He further states, that he thinks Knight was in the Sacramento valley, at his place, in the spring of 1846; that if he had been absent or far away he thinks he should have known it, because there were but few Americans in the country. "We knew each other, and if one had been absent, I think I should have known it."

That persons leaving the valley uniformly applied to General Sutter for passports. That Knight did not make such an application; that he (witness) was with General Sutter, kept his books, and did most of his writing.

General Sutter testifies, that he knows that in 1845, or 1846, probably in the fall of 1845, Knight went to Los Angeles to get a title for his rancho from Pio Pico; that he is doubtful whether it was in the spring of 1846, for the water-courses, as is usual in the spring, were very much swollen. In a subsequent part of his deposition he states, that in the winter of 1846, just before the Bear flag was raised, he and Knight had a dispute about the quantity of land solicited by Knight; that Knight said he would not take a grant for less than ten leagues, and became so excited about it, that he drew a pistol upon him (witness), and that subsequently they had no intercourse. He adds that Knight could not have been in Los Angeles in May, 1846, because he was then with Colonel Fremont.

The testimony of this witness rather tends to establish the facts alleged by the claimants than to disprove them. He states positively, it will be observed, that Knight went to Los Angeles to get a grant from Pio Pico in 1845, or 1846; but he thinks it was in the fall of 1845. The conversation with Knight, which he says occurred in the succeeding winter, shows that at that time Knight did not have his grant. If, then, Sutter is right in saying that Knight went to Los Angeles at all to obtain a title from Pio Pico, it would seem most probable that he went in 1846, and not in the fall of 1845.

J. P. Leese testifies, that the marginal note on the petition to Micheltorena, dated January 26th, 1844, was written by him at the time it bears date, except the words "una parte de ello," which were added subsequently at the solicitation of Knight, and in the presence of Hardy; that these words were added at the time he made the certificate which is appended to the papers, and which was made October 8th, 1847; that Knight represented that he had been unable to get his title from the governor, because his (witness's) report showed that the land had been granted to Hardy, and that he (the witness) thereupon added the words above mentioned to his report, and appended his certificate to the papers. He further states that Knight on this occasion brought all his papers to be examined by the witness, and that the only papers he recollects seeing were the Micheltorena papers.

On his cross-examination, Leese modifies the foregoing statement in an important particular. He testifies that Knight informed him he had not been able to obtain a grant in the fall of 1845, and not in 1847, as he had previously sworn; and that Knight never made to the witness any declaration to the same effect subsequently. He also states that the words "una parte de ello" were added by him when he was going out of office in 1845; and, finally, that he cannot swear that those words were added by him at all.

From the whole of Leese's testimony, it may, I think, be fairly concluded that the words added to his report were, in all probability, placed there in the fall of 1847; but that the declaration of Knight that he had not obtained a title was made in 1845, before the date of the title now claimed to have been issued.

D. M. Berry testifies that he has heard Knight speak on several occasions of his title-papers; that he abused Bidwell for not getting a grant for him from the governor; that he thought his claim would be doubtful in consequence; that he had alcalde's papers, which were a shadow of title, and that Fremont, or Bidwell, had told him a shadow of title would be good; that in 1847 he refused to sell the witness a part of his rancho, fearing to weaken his title by dividing the land, and saying that when he got his grant or title to the rancho, he would let him (witness) have as much as he wanted.

William Gordon testifies that he saw Knight at his house, about eleven miles from Knight's rancho, in the early part of June, 1846; that he was then with the war party which shortly afterwards took Sonoma. He adds that Knight told him, after this campaign, that he had his papers "all regulated about right in his land affairs," but did not mention that he had been to Los Angeles to get them fixed.

It will be observed that the date at which this witness saw Knight at his house (in the early part of June) is quite consistent with the hypothesis that Knight left Los Angeles in the beginning

of May; as also with the statement of Davis, that Knight came into Fremont's camp at the "Buttes" about the 5th June. This witness also states that he does not remember having seen Knight at any time in the early part of 1846, before the month of June, although he may have done so.

Major Gillespie, who was an officer of the marine corps, "under special and confidential order from the President of the United States," testifies that he met Knight in the Sacramento valley early in the month of June, 1846; the he (Knight) joined the Bear Flag insurrection between the 26th May and the 1st June; that in the latter part of April and the month of May the country between Sutter's fort and Los Angeles was overflowed—so much so that his courier, Sam. Neal, was obliged to turn back, cross the Sacramento river at the fort, and go down by way of Sonoma; that it would have required to make the journey, under ordinary circumstances, about six weeks, but on express fifteen or twenty days. In reply to the twenty-first interrogatory, Major Gillespie states that he does not know the exact distance from Sutter's fort to Los Angeles; that at that time it was computed by days' travel more than by miles. "By ordinary travelling it took fifteen days; by express from six to seven days." There is probably some error in reducing the deposition of the witness to writing; but as the distance between the two places is about seven hundred miles, it is probable that the last answer, as to the time usually required to make the journey, is the correct one.

Gillespie further testifies, that the rising of the American settlers in the Sacramento valley took place in the latter part of May, 1846; that its immediate cause was a proclamation of Castro, requiring all who had not been a year in the country, and had not been naturalized, to leave California immediately, and that the settlers had heard that a military force was about to march against them; that the hostile feeling had prevailed from the time of Fremont's attempt to pass through the country in March, 1846, and that from that period the communications of American settlers with the lower parts of the country were precarious and doubtful. The witness states; however, that he made during the spring a journey from Monterey to the north of Klamath lake and back to Yerba Buena, (San Francisco,) though he was "in constant fear of being picked up by the authorities."

With respect to this testimony, the same observation may be made as to the deposition previously noticed, viz: that the fact that Knight was with the insurgents about the end of May or 1st of June is entirely consistent with his having been in Los Angeles about the 4th of May preceding. He is stated by Major Gillespie to have been "a famous horseman;" and even if he enlisted on the 26th of May he would have had more than twenty days to make a journey which, Gillespie says, could be performed in six or seven

days. The United States have introduced, however, more positive testimony to show that Knight could not have gone to Los Angeles as alleged.

William Bartee swears, that during the months of April, May and June, 1846, Knight was at his rancho; that he and the witness frequently hunted together, and that during those months not more than eight or ten days could have passed without his seeing Knight.

The witness states, on his cross-examination, that he kept no memorandum of dates, but the men with him did so; and he recollects the dates well. But that Knight was not at his rancho during the month of June is clear from all the testimony in the case. All the witnesses, both those for the United States and those for the claimants, concur in stating Knight to have been with Fremont at the end of May or beginning of June, and that he was on the expedition to Sonoma in the early part of the latter month.

Colonel Fremont himself states that Knight was employed by him as a spy in May, and that his occupation led him to the neighborhood of the bay. Bartee is thus clearly in error in stating that Knight was on his rancho during the month of June.

John Grigsby testifies that he saw Knight at his house, on the Sacramento river, on or near the first day of May, 1846; that he was in pursuit of a mule which had been stolen from him "by a gentleman named Dr. Carter;" that the train in which Carter was, was to start, as he understood, on the 1st of May, and he therefore hurried on to recover his mule before they started; that Knight lent him a horse when he reached his rancho, but on reaching Feather river he learned that the train would not start until the 15th, and he employed Mr. Hardy to cross Feather river and get the mule as soon as the waters permitted; he then returned to Knight's rancho; that he was at home, and Hardy brought him the mule in about ten days.

Samuel W. Chase testifies that he saw Knight on his rancho on the 18th or 20th of April, 1846, and that John Gordon was with him at the time.

John Gordon's testimony is by no means explicit. He states that he, in company with Chase, saw Knight at his rancho, but he cannot remember the day or the month; he thinks it was in the spring of 1846, some four or five months before Fremont's party started for Sonoma; that from that time until the party started for Sonoma he saw him at intervals, sometimes of three or four days, a week or a month. If this witness is correct in stating that the time at which Chase and himself saw Knight at his rancho was four or five months before the expedition to Sonoma, then it must have been in January or February, 1846. Knight would thus have had ample time to make his journey to Los Angeles, and to reach Fremont's camp at the end of May or beginning of June.

Nicholas Algier testifies that in 1846 he lived about eight miles

distant from Knight; that during that year he saw him nearly every week, two or three times a week; that he saw him in March two or three times at Sutter's fort, and at his own house about the 10th or 15th of May; that he remembers this from the circumstance that he was ploughing to plant corn.

The foregoing testimony is chiefly relied upon by the United States, as showing that Knight could not have been at Los Angeles as contended for by the claimants. It cannot, however, be considered as establishing the fact in a very satisfactory manner.

Bartee, as we have seen, states, that during not only April and May, but June, 1846, Knight was at home at his rancho; and yet it is clear, that at the end of May he was at the Buttes with Fremont, and the latter testifies that he employed Knight as a spy during the month of May, and that his occupation led him to the neighborhood of the bay.

S. W. Chase is not only contradicted by Gordon, by whom he says he was accompanied on a visit to Knight's rancho about the 18th or 20th April, 1846; but in his affidavit, filed some months before his deposition was taken, he says that he saw Knight on his rancho on or about the last day of April of 1846. That he was mistaken as to one or the other of these statements is evident. It is not unreasonable to suppose that he may be mistaken in both, and that he has no distinct and reliable recollection of the date at which he saw Knight at his residence.

Algier's statement, that he saw Knight at his rancho on the 10th or 15th May, 1846, is not inconsistent (if we adopt the latter date) with the hypothesis that Knight left Los Angeles about the 5th, and the witness states no fact which, after so large an interval of time, would justify us in concluding with any degree of certainty that the true date may not have been a few days later. Knight's presence at his rancho towards the end of May is entirely consistent with the theory of the case as presented by the claimants.

Major Bidwell's testimony is much relied on by the United States, not only on account of the character of the witness, but because the reason he assigns for thinking Knight was in the valley during the spring of 1846 is such as, when the state of affairs in the country at the time is considered, to render it impossible that, if he had been absent, his absence should not have been noticed. "There were but few Americans in the country. We knew each other, and if one had been absent I think I should have known it."

It is to be remarked, however, that Major Bidwell does not swear that he knows Knight was in the valley. He merely testifies in effect, that he does not remember that he was absent, and if he had been, he thinks he should have noticed it. But Major Bidwell's deposition shows that on other points his memory is by no

means reliable. He states that Knight, in 1844, petitioned the alcalde of the Sonoma district for land; that the petition was acceded to by the alcalde, and was then referred to General Sutter, from whom a favorable report was obtained. A second petition to the governor was then made out, and both petitions were presented to the governor, and by him referred to the Secretary of State. An examination of the Micheltorena papers, shows this account of the proceeding to be entirely erroneous.

The petition was addressed to the governor, and by him referred to the prefect. The prefect referred it to General Sutter, who referred it to the alcalde of Sonoma, and the alcalde of Sonoma reported unfavorably to the petitioner. There was thus no petition to the alcalde; no favorable report by him; no reference by him to Sutter, and no favorable report by the latter.

When we find Mr. Bell's memory so treacherous upon points like these, upon which he testifies with apparent confidence, it is surely unsafe to rely upon it on others where the probabilities of error would seem to be greater. General Sutter, as we have seen, to a certain extent corroborates the statement of the claimants' witnesses, for he swears that he knows that Knight went down in 1845 or 1846, to get a title from Pio Pico. He thinks, however, that it must have been in the fall of 1845, because in the spring of 1846 the water-courses were much swollen. It is not pretended that Knight obtained a title in 1845, and the conversation with Knight, related by Sutter, which he says occurred in the winter of 1846, just before the Bear flag raised, shows that at that time Knight had no title. If he had at that time been to Los Angeles, and failed to obtain it, it is not probable that he should have omitted to mention it, and have left General Sutter ignorant, as he swears he is, whether he obtained it or not. It seems, therefore, most probable either that Sutter is mistaken in his positive statements, that "he knows Knight went down to get a grant from Pico," or else, if that statement be true, Knight must have gone in the spring of 1846, after his conversation and quarrel with Sutter.

It is urged by the counsel of the United States that in this case, the negative testimony of Bidwell that he did not know of Knight's absence has all the force of positive statement; that the American settlers in the Sacramento valley were a small band, menaced with extermination or expulsion from the county, and driven to rely upon each other for protection; that at such a time, the absence of a bold, active man like Knight could not have escaped observation, and that, therefore, Major Bidwell's statement, that he did not know of his absence, is equivalent to a positive statement that he was not absent. There is undoubtedly force in the argument. It is to be recollected, however, that the actual rising of the settlers did not take place until the latter part of May, which

was also the date of the decree or bando of General Castro, ordering all Americans who had not become naturalized, and not been a year in the country, to leave California. The settlers also heard about the same time that Castro and Vallejo were collecting horses to send to San José to mount their men.

It is true that Major Gillespie states that the causes which produced the rising had been in operation from the time of Fremont's attempt to pass through the country in March. But it is evident that during the months of March and April, no such measure could have been contemplated by the American settlers, for Fremont, after remaining more than a month in the valley, directed his march towards Oregon, which he assuredly would not have done, had he supposed that he was abandoning his countrymen to the violence of the Californians. Even so late as the 22d of April, 1846, he left Lassen's rancho, the furthest north of the American settlements, still continuing his march towards Oregon. It was only on the 9th of May, after being overtaken by Gillespie, that he counter-marched, and returning, reached the American settlements on the 24th. It was then that the settlers joined him, and hostile operations took place. That Knight was with him then, is clear; that his absence at that time could not have failed to be noticed, is also evident. But I see no reason to conclude that the same observation can be applied to an absence during the month of April and the early part of May.

It is urged that Knight could not have made this journey, by reason of the height of the waters in the streams; but Fremont found no difficulty in marching from Klamath lake to Sacramento, between the 9th and 24th May, the upper waters at least of the Sacramento and San Joaquin being then low, and Major Gillespie, about the same time, made the journey from Monterey to Klamath lake, and back to San Francisco. That the journey was attended with some difficulty may be admitted, but it cannot be affirmed that to a bold horseman like Knight it was impossible.

It is urged, that such a journey to an American would have been attended with great difficulty, owing to the hostile feelings of the Californian authoritiesand population. Such, no doubt, was the fact. But Knight was a naturalized Mexican, married to a Mexican woman, and had resided a long while in the country. The bando of Castro only embraced settlers who had not become Mexican citizens, and who had not been a year in the country; and Fremont states that though Knight was a prominent actor in the rising, he was not "ostensibly so," and that he employed him as a spy, "an occupation which led him to the neighborhood of the bay, where he could communicate with the Mexicans and ascertain their movements." Knight must, therefore, have preserved his friendly relations with the Mexicans; and if his real sentiments were so little known that Fremont could, in May, and subsequently during the whole cam-

paign, employ him as a spy, it is to be presumed that in the preceding April he could have had little to fear from the hostility of the Californians.

It is urged that Fremont states that he does not know whether Knight was in Los Angeles in May, 1846, and that he would certainly have known it had he been there. But it would seem that this statement of Colonel Fremont furnishes as strong an argument for the claimants as against them. If Knight was in Fremont's employ, or with him, during the whole month of May, as contended for on the part of the United States, Colonel Fremont would have been able to state positively that he was not in Los Angeles during that month. This inability to state anything on the subject shows that Knight could not have been with him, nor was he acquainted with his movements during the period alluded to.

It may also be observed, that Colonel Fremont mentions that Knight brought him his papers just before his death; that he described them; but the witness does not recollect his description; that he does not recollect his saying anything of Micheltorena in connection with them; he thinks he spoke rather of Pico, and that he does not recollect that he stated that his papers were imperfect.

On the whole, after a careful consideration of the evidence on the point we have been considering, my opinion is that the United States have not established satisfactorily the fact that Knight was not in Los Angeles at the time mentioned by the claimant's witnesses. Many circumstances render it improbable, but it is positively sworn that he was there, and the statement may very possibly be true. I have been unable to bring my mind to the conclusion that the claim ought to be rejected as spurious on the ground that he was not, and could not have obtained it at the time stated by the witnesses.

The only testimony to show that the grant was in fact issued, to which we have thus far adverted, is that of Moreno and that of N. A. Den. If the case of the claimants rested on this testimony alone, I should not hesitate to reject it, for I should consider it too unreliable or too loose to justify me, under all the circumstances, in considering the issuance of the title as proved, but the claimants have produced from the archives an expediente, which, if genuine, establishes beyond doubt the facts of Knight's application for the land, and of the grant made by Governor Pico.

The expediente consists of a petition by Knight, a marginal order by Pico, a decree of concession signed by the same officer, and the usual borrador or copy of the title delivered to the party.

The signatures of Pio Pico and Moreno, as they appear on these papers, are proved to be genuine, nor is any question made on that point. The signatures on the borrador or copy are not those of Pico or Moreno, as that instrument was a copy of the grant issued

to the party, which was attached to other papers in the expediente on which the governor's signature was usually written, or else copied by the clerk who prepared the borrador; but the marginal order and the decree of concession directing the title to issue, bear the genuine signatures of the governor.

It is said that the existence of these papers in the archives proves nothing, for they may have been fabricated and placed there subsequently to their dates.

The archives of the former government after Monterey was taken possession of by the United States were transferred, as is well known, to Sutter's fort, where they remained until the spring of 1847. They were then returned to Monterey, and remained in charge of Governor Mason, and the officers under him, until February, 1850. Both Fremont and Major Halleck swear that while they remained in their charge they were carefully guarded, and Major Halleck testifies that while they were in his charge no paper was placed among the archives without placing a memorandum upon it, giving the date at which, and the person by whom it was deposited. That an expediente may, notwithstanding, have been foisted into the archives is possible, but not probable; but the indexes which were during the year 1847 prepared by Hartnell and Halleck, show at that date at least this expediente was archived. Captain Halleck, who was secretary of state under Governor Mason, states that he was assisted in the duties of that office by W. P. E. Hartnell, and that early in the year 1847 Mr. Hartnell commenced arranging and numbering the expedientes in the office; that he, before the month of June, 1847, had prepared an index of the expedientes on file. That subsequently, in 1848, Mr. Hartnell and himself prepared a second index, which was similar to the first, except that a few expedientes were noted on it which had been overlooked by Mr. Hartnell, when the first was prepared. A note of these was also inserted by Mr. Hartnell on his first index. Both of these indexes are now found in the surveyor general's office; they are identified by Major Halleck. On both, this expediente is noted not among the omitted expedientes, but among those originally indexed.

The expedientes found in the archives appear to have been numbered by the Mexican authorities from one to five hundred and twelve inclusive. This numeration was therefore continued by Mr. Hartnell, and the remaining expedientes were numbered by him up to five hundred and seventy-nine. The number of the expediente was written on its back, and was also noted in the index made by him. On the back of the expediente produced in this case, the name of the land, "Carmel," with the number 550, appear, and the grant is mentioned by the same name and number in the index. The handwriting, as well that on the expediente *as that on the expediente* as that on the index, is proved to be Hartnell's.

That the numbers were inscribed upon the expedientes before the index was made, appears probable, but it is certain that when the index was made, this expediente must have been in the archives, and this for two reasons: First, that the note of it seems to be written with the same ink, and apparently at the same time with the rest of the index; and secondly, because it is numbered as its date requires. It is dated, as has been said, May 4th, 1846. It is numbered 550. No. 549 is dated May 2d, 1846; No. 551 is dated May 6th, 1846. It must, therefore, with the other expedientes, have been in the office when the index was prepared, and its number affixed to it. It could not have been subsequently deposited and a note of it inserted in the index, for in that case it would either have had no number, or there would have been two expedientes, both numbered 550. Unless, therefore, the testimony of Major Halleck be entirely rejected—and it has not been contradicted—we must believe that, in 1847, when the index was made, there was in the archives an expediente for the grant of a place, called "Carmel," to William Knight. It has been suggested that the expediente may not have been the one now produced. That the expediente on the outer sheet of which Mr. Hartnell placed the number 550, and which he noted in his index, may have been the expediente of the Micheltorena papers heretofore alluded to. But this conjecture or suspicion seems unsupported by facts.

1st. It seems from all the evidence that the Micheltorena papers remained in Knight's possession from the time they were returned to him after his unsuccessful application to the governor. The testimony of Leese is relied on by the United States to show that in October, 1847, he added his certificate, and appended certain words to his report. They are now produced from the custody of Knight's administrator. No evidence whatsoever has been adduced to show that they were ever in the archives. And

2d. On the back of the expediente, and in the indexes, the name of the land granted (Carmel) appears. This name is in the handwriting of Mr. Hartnell. It appears to have been written at the time when the No. 550 was inscribed upon the document. Mr. Hartnell could only have known the name of the place from inspection of the papers, and the Micheltorena papers contain no designation of the place by name. The name "Carmel" for the first time appears in Pio Pico's decree of concession.

3d. Had the Micheltorena papers been contained within the cover of the expediente, the number 550 could not have been affixed to it. The latest of those documents is dated 1844. The expedientes were numbered by Mr. Hartnell in the order of their dates. It is impossible that he should have affixed to documents dated in 1844 the number 550, while he numbered a document dated May 2d, 1846, 549, and another dated May 6, 1846, 551.

I think it clear, therefore, that at the date of making the index of Hartnell this expediente was on file in the archives.

It is admitted that Pio Pico left California in August, 1846, and did not return until July, 1848. As his signatures, as they appear on the documents contained in the expediente, are shown to be genuine, it follows that he must have made the grant either at its date, or subsequently; before his flight, or during his absence in Mexico.

It has been argued with great earnestness that it is in the highest degree improbable that Pico, with his known hostility to Americans, would have made this grant in May; but it is still more improbable that he would have made it in June, July or August, after the insurrection had broken out, or after Monterey had been captured. During all these months Knight was with Fremont, and he marched south with him at the close of June. It seems equally improbable that Pico could have made the grant during his absence in Mexico. Certainly he would not have done so unless some pecuniary or other inducement had been held out to him. The course of events, surely, had not tended to diminish any hostility to Americans he might previously have entertained. It does not appear that Knight had any pecuniary resources, nor did the nature of his employment leave him much time to enter upon and consummate such a negotiation with an ex-governor of California residing in Mexico. Major Gillespie testifies that he remained on duty in the Sacramento valley until late in the fall of 1846. He then went south as a guide to Colonel Fremont, and arrived in Los Angeles about January, 1847, for the first time after the commencement of hostilities. He remained in Los Angeles about a month, and then went north as a bearer of despatches.

But the expediente, as we have seen, must have been in the archives at least as early as the middle of 1847. It seems therefore scarcely possible that Knight could, during this time, have procured the grant from Pio Pico in Mexico, and subsequently have succeeded in placing the expediente in the archives before the index was made, and without the knowledge of either Hartnell or Halleck.

The counsel for the United States have dwelt with much force on the fact that Knight, so late as October, 1847, was procuring certificates from Leese and Hardy, and apparently relying solely on the Micheltorena papers.

It is to be considered, however, that at that time; if Brannan is to be believed, Knight had lost the grant alleged to have been issued to him by Governor Pico. The archives which had been carried to Sutter's fort, and there remained until the spring of 1847, had only a few months before been taken to Monterey. They were then and for a long time afterwards in much confusion. It is therefore possible that Knight may have regarded the loss of

his grant from Pico as fatal to his claim, and turned his attention to the Micheltorena papers, with a view of making out some "shadow of title," which he had been advised would be sufficient. The fact that he was engaged on the Micheltorena papers in October, 1847, would seem to indicate that up to that time he was not aware that the expediente since produced was among the archives. If it had been fraudulently placed there already, the fraud must have been accomplished without Knight's knowledge, which is impossible. That it was among the archives at the end of 1847, we have seen, has been proved.

After a most careful consideration, I have been unable to resist the conclusion that the existence of this expediente in the archives in 1847 must be taken as proved, and that the hypothesis that it was placed there after its date and during the absence of Pico from California is not only unsustained by proofs, but is extremely improbable. If this conclusion be correct, it follows that the execution and issuance of the title to Knight must be considered as established by proofs from the archives, in their nature far more satisfactory than would have been the production by the claimant of the title unsupported by such proofs; for the genuineness of a document of this kind produced by the claimant and unconfirmed by the public records is always open to suspicion. The evidence thus furnished by the archives is not, in my opinion, rebutted by the testimony already examined as to the whereabouts of Knight in May, 1846, the difficulty of making the journey to Los Angeles, or the improbability that Pico would have made the grant; for the testimony on these points is inconclusive and unsatisfactory, while the evidence from the archives, if Major Halleck's statement with respect to the indexes be correct, is positive and reliable.

It is objected that the grant, even if made by the governor, is void, because the expediente does not contain any order of reference or "informe" by officers, which, by the regulations, the governor was required to obtain. In support of this position, the case of United States vs. Cambuston, 20 How., 62, is relied on. In that case, no expediente whatever was produced; neither a petition, a map, a marginal order, reference for information, informe, or decree of concession appeared to have been made; nor was any evidence offered to show that "any one of the preliminary steps made requisite by the act of 1824, and the regulations of 1828, to a grant by a Mexican governor, had been observed. The recital in the grant itself the Supreme Court declare "not to be conclusive or even satifactory evidence of the facts when the question is raised whether or not the alleged grant was made in conformity with the requirements of the law; in other words, whether the preliminary conditions had been complied with which enabled the governor in the particular case to make the grant, especially in respect to those preliminary proceedings which are required to be of record, and of

which record evidence should have been produced, or its non-production satisfactorily accounted for."

But the case at bar is essentially different. The record evidence is produced showing that a petition was presented; that a decree of concession was made; and that the title, a copy of which is contained in the expediente, issued. The decree of concession alludes to a report of the alcalde of Sonoma which is not found in the expediente; and the petition states that a report of that officer is annexed to the petition. What has become of that report does not appear; but I cannot consider that the absence of that single document, even unaccounted for, is sufficient to defeat the grant. The evidence that the governor complied with the preliminary conditions which enabled him to make the grant does not consist, as in the case of Cambuston, merely of a general recital that the customary investigations had been made, which recital is contained in a document produced from the claimant's custody, but it clearly appears that a petition was presented by the applicant which purports to be accompanied by a report. This report is specifically alluded to by the governor in making his preliminary decree according to the petition, and all this of record. It is also to be remarked that the regulations of 1828, while they require that a petition expressing the name, country, religion, etc., of the applicant shall be addressed to the governor, merely direct the governor to obtain the necessary "information as to the land and the petitioner, in order that the application may be attended to; or if it be preferred, the municipal authority may be consulted whether there is any objection to making the grant."

It is clear that this regulation left it discretionary with the governor whether to consult the municipal authority or not. Nor does the direction to him to obtain the necessary information in terms oblige him to resort to any particular mode of ascertaining the facts. It would seem, therefore, that where the governor is from personal knowledge or oral information satisfied that the land is vacant, and that the petitioner has the necessary qualifications, and thereupon, without requiring informes in writing, accedes to the petition, the grant ought not to be avoided because no informes are found in the espediente; and such seems to have been the view of the Supreme Court in the subsequent case of the United States vs. John A. Sutter, the claim in which was confirmed notwithstanding that no informes were contained in the expediente.

After the best consideration I have been able to give this case, my opinion is, that although there are some suspicious or rather improbable circumstances connected with the claim, yet, on the whole, the preponderance of proof is in favor of its genuineness, and that it ought to be confirmed.

A decree of confirmation must therefore be entered.

Endorsed: Filed May 26th, 1859.

W. H. CHEVERS, *Clerk.*

Decree of Confirmation.

At a stated term of the district court of the United States of America, for the northern district of California, held at the court-house in the city of San Francisco, on Thursday, the twenty-sixth day of May, in the year of our Lord one thousand eight hundred and fifty-nine.

JAMES G. MOREHEAD, Adm'r of William Knight, dec'd, vs. THE UNITED STATES. } No. 89 L. C.—No. 106 D. C.

This cause came on this day to be heard, upon the certified transcript of the proceedings and decision of the board of land commissioners on private land claims in the State of California, and of the papers and evidence on which the same were founded, and upon the further evidence taken under the order of this court, and was argued by counsel: thereupon, upon consideration thereof, it is ordered, adjudged, and decreed that the decision of the said board of land commissioners is erroneous, and that the same be and is hereby reversed and annulled.

And this court doth further order, adjudge, and decree that the title of the claimant to the land described in the said transcript is a good and valid title, and that the same be and is hereby confirmed to the said claimant. The land of which confirmation is made is known by the name of "Carmel," and is the same which was granted to William Knight, deceased, by Pio Pico, constitutional governor of the departments of the Californias, on the fourth day of May, in the year 1846, and is bounded and described as follows, that is to say: on the east by the Sacramento river; on the south by the rancho of Thomas Hardy and that of Don Julian Gordon, called "Jesus Maria;" on the west, following the arroyo of Jesus Maria, by the first hills which are come to; and on the north by vacant lands, containing ten square leagues of land; for more particular description reference is made to the petition of the said William Knight, and to the said grant, copies of which are contained in the said transcript.

And it is further ordered, adjudged, and decreed that the quantity of land hereby confirmed is ten square leagues, and no more; provided, that said quantity be contained within the boundaries aforesaid; but, should there be less within the said boundaries than the said quantity of ten square leagues, then, only so much as is contained within the said boundaries is hereby confirmed.

And it is further ordered, adjudged, and decreed that this confirmation inure to the benefit of the legal representatives of the said William Knight, deceased, according to their respective rights and interest in the said tract of land hereby confirmed.

OGDEN HOFFMAN,
Dist. Judge.

Endorsed: Filed September 29th, 1859.
W. H. CHEVERS, *Clerk.*

Order granting appeal.

At a stated term of the district court of the United States of America, for the northern district of California, held at the court-house in the city of San Francisco, on Wednesday, the twenty-sixth day of October, in the year of our Lord one thousand eight hundred and fifty-nine.

Present, the Honorable Ogden Hoffman, district judge.

THE UNITED STATES
vs.
JAMES G. MOREHEAD,
Adm'r Wm. Knight, dec'd.
} No. 106; L. C. 89.

In this case, on application of T. R. Wise, esq., acting United States attorney, it is ordered that an appeal in behalf of the United States from the final decision of this court, rendered in said cause at the present term, be and the same is hereby granted, and that a certified transcript of the pleadings, evidence, depositions, and proceedings in the said cause be sent to the Supreme Court of the United States without delay.

Endorsed: Filed October 26th, 1859.
W. H. CHEVERS, *Clerk.*

I, W. H. Chevers, clerk of the district court of the United States, for the northern district of California, do hereby certify that the annexed and foregoing, consecutively numbered two hundred and twenty-six pages, contain a full, true, and correct transcript of the record from the board of U. S. land commissioners, and of the pleadings, proceedings, and evidence in, and the opinion, decree, and order granting appeal of this court, filed in this office in the case of the United States vs. James G. Morehead, adm'r of Wm. Knight, deceased, No. 106.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at San Francisco, Cal'a, this fourth day of November, A. D. 1859, and of our independence the 84th.
[SEAL.]

W. H. CHEVERS, *Clerk.*

Filed 9th December, 1859.